

# Exhibit 1

Defendants.

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

2:17-cv-00903-WBS-KJN

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

WILLIAM WIESE, et al.,                     )  
  )  
                          Plaintiffs,         )  
  )  
v.   ) No. 2:17-cv-00903-WBS-KJN  
  )  
ROB BONTA, et al.,                     )  
  )  
                          Defendants.        )  
\_\_\_\_\_  
  )

DEPOSITION OF: JAMES CURCURUTO

TAKEN ON: August 3, 2023

APPEARING REMOTELY FROM MIDDLEBURY, CONNECTICUT

STENOGRAPHICALLY REPORTED BY:

ALTHEA L. MILLER

CSR No. 3353, RPR, CCRR No. 149

File No. 107482

APPEARING REMOTELY FROM LOS ANGELES COUNTY,  
CALIFORNIA

Wiese, et al. vs. Bonta, et al.

Deposition of James Curcuruto

1	REMOTE DEPOSITION OF JAMES CURCURUTO,	1	E X H I B I T S
2	taken on behalf of the Defendants, with	2	DEPOSITION PAGE
3	all parties, by agreement, attending the	3	EXHIBIT 7 Copy of the deposition of 141
4	deposition remotely in Los Angeles	4	James Curcuruto, taken on
5	and San Francisco counties, California, on	5	January 24, 2014, 250 pages
6	Thursday, August 3, 2023, at 9:33 A.M., before	6	EXHIBIT 8. 14-page document titled 155
7	Althea L. Miller, CSR No. 3353, RPR,	7	"Ethical Guidelines for
8	CCRR No. 149.	8	Statistical Practice
9		9	EXHIBIT 9 Copy of a two-page declaration 164
10	APPEARANCES:	10	of James Curcuruto in the
11	For the Plaintiffs:	11	Rocky Mountain Gun Owners
12	SEILER EPSTEIN LLP	12	versus The Town of Superior
13	BY: GEORGE M. LEE, ESQ.	13	
14	Four Embarcadero Center	14	
15	14th Floor	15	
16	San Francisco, California 94111	16	
17	(415) 979-0500	17	
18	gml@seilerepstein.com	18	
19		19	
20	For the Defendants:	20	
21	OFFICE OF THE ATTORNEY GENERAL	21	
22	OF THE STATE OF CALIFORNIA	22	
23	BY: ROBERT L. MEYERHOFF,	23	
24	Deputy Attorney General	24	
25	JOHN D. ECHEVERRIA,	25	
	Deputy Attorney General		
	300 South Spring Street		
	Suite 1702		
	Los Angeles, California 90013-1230		
	(213) 259-6177		
	Robert.Meyerhoff@doj.ca.gov		
	John.Echeverria@doj.ca.gov		
	///		
	///		
	Page 2		Page 4
1	I N D E X	1	REPORTED REMOTELY FROM LOS ANGELES COUNTY,
2	WITNESS PAGE	2	CALIFORNIA
3		3	August 3, 2023
4	JAMES CURCURUTO	4	9:33 A.M.
5	BY MR. MEYERHOFF 5, 180	5	
6		6	-oOo-
7	BY MR. LEE 172	7	
8		8	JAMES CURCURUTO,
9	E X H I B I T S	9	having declared under penalty
10	DEPOSITION PAGE	10	of perjury to tell the truth, was
11	EXHIBIT 1 Copy of the "Notice of 11	11	examined and testified as follows:
12	Deposition of James Curcuruto,"	12	
13	three pages	13	THE WITNESS: I do.
14	EXHIBIT 2 Copy of "Plaintiffs' 21	14	THE REPORTER: Thank you.
15	Objections to Defendants'	15	THE WITNESS: You're welcome.
16	Notice of Deposition of	16	
17	James Curcuruto, three pages	17	EXAMINATION
18	EXHIBIT 3 Copy of "Declaration of James 26	18	BY MR. MEYERHOFF:
19	Curcuruto in Support of Plaintiffs'	19	Q Good morning.
20	Motion for Temporary Restraining	20	My name is Rob Meyerhoff. I'm a Deputy
21	Order and Issuance of	21	Attorney General with the Department of Justice. I
22	Preliminary Injunction,"	22	represent the defendants in this case.
23	six pages	23	Why don't we just start with some ground
24	EXHIBIT 4 17-page document titled on 74	24	rules relating to the deposition.
25	page 1 "Outdoor Stewards of	25	You understand you're testifying under oath
	Conservation Foundation		
	EXHIBIT 5 Two-page document titled 103		
	"Southwick Associates		
	Honored for Groundbreaking		
	Research		
	EXHIBIT 6 Copy of the deposition of 115		
	James Curcuruto, taken on		
	January 11, 2018, 174 pages		
	///		
	Page 3		Page 5

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Deposition of James Curcuruto

<p>1 today, Mr. Curcuruto?</p> <p>2 A I do.</p> <p>3 Q And you understand that even though we're</p> <p>4 in the informal setting on the Zoom call, the oath</p> <p>5 that you just took has the same sanctity as if we</p> <p>6 were in a court of law?</p> <p>7 A Yes.</p> <p>8 Q And do you understand the same penalties</p> <p>9 for giving untrue testimony apply?</p> <p>10 A Yes.</p> <p>11 Q Even though the deposition is proceeding</p> <p>12 over Zoom, the court reporter won't be able to take</p> <p>13 down nonverbal responses like head nods or shakes.</p> <p>14 You'll need to give verbal answers to each question.</p> <p>15 Do you understand that?</p> <p>16 A Yes.</p> <p>17 Q If you don't understand a question, please</p> <p>18 just ask me to clarify and I can try to restate the</p> <p>19 question.</p> <p>20 If you answer a question I ask, people</p> <p>21 reading the transcript later will assume you</p> <p>22 understood the question.</p> <p>23 Does that make sense?</p> <p>24 A Yes.</p> <p>25 Q Also, from time to time, Mr. Lee may make</p> <p style="text-align: right;">Page 6</p>	<p>1 alcohol at this time?</p> <p>2 A I am not.</p> <p>3 Q You've been deposed before; correct?</p> <p>4 A Correct.</p> <p>5 Q And you are -- was your first deposition</p> <p>6 the Wilson versus Cook County case?</p> <p>7 A I don't recall the order of them. I've</p> <p>8 been deposed maybe a half dozen times, but I don't</p> <p>9 recall the order.</p> <p>10 Q But you recall being deposed in that case;</p> <p>11 correct?</p> <p>12 A Which one was that?</p> <p>13 Q Wilson versus Cook County in 2013.</p> <p>14 A Sounds familiar, yes, sir.</p> <p>15 Q Do you recall the subject matter of that</p> <p>16 case?</p> <p>17 A Not specifically, but for the most part,</p> <p>18 all the cases I've been deposed in had to do with</p> <p>19 either the high-capacity magazines or the AR-15</p> <p>20 model firearm.</p> <p>21 Q Do you recall being deposed in the Kolbe</p> <p>22 versus O'Malley case?</p> <p>23 A Yes. I was deposed in that one.</p> <p>24 Q And Friedman v City of Highland Park as</p> <p>25 well?</p> <p style="text-align: right;">Page 8</p>
<p>1 objections.</p> <p>2 Do you understand that?</p> <p>3 A Yes.</p> <p>4 Q If you need to take a break, please let me</p> <p>5 know. We can take a break whenever you want or</p> <p>6 whenever Mr. Lee or the court reporter needs one.</p> <p>7 However, I'll ask if there's a question</p> <p>8 pending -- I've asked a question -- I just ask that</p> <p>9 you answer the question before taking a break.</p> <p>10 Does that make sense?</p> <p>11 A Yes.</p> <p>12 Q Do you have any questions about the</p> <p>13 procedures we're going to be following today?</p> <p>14 A Not now, no.</p> <p>15 Q Is there any reason you feel like you can't</p> <p>16 give your best testimony today?</p> <p>17 A No.</p> <p>18 Q Are you suffering from any medical problems</p> <p>19 that would prevent you from doing so?</p> <p>20 A No.</p> <p>21 Q Are you under the influence of any</p> <p>22 prescription medications that would prevent you from</p> <p>23 doing so?</p> <p>24 A I am not.</p> <p>25 Q Are you under the influence of drugs or</p> <p style="text-align: right;">Page 7</p>	<p>1 A Correct. Yes.</p> <p>2 Q You were also deposed in the Worman case;</p> <p>3 is that correct?</p> <p>4 A Was that Worman --</p> <p>5 Q V Healey.</p> <p>6 A -- v Healey?</p> <p>7 Okay. Massachusetts, I think, yeah.</p> <p>8 Q You were also deposed in two California</p> <p>9 cases; correct?</p> <p>10 A I know I've -- Duncan v Becerra was one of</p> <p>11 them, and I'm not sure if there's another Becerra</p> <p>12 one, but --</p> <p>13 Q Would it refresh your recollection if I</p> <p>14 told you you were deposed in a case called Miller?</p> <p>15 A Okay.</p> <p>16 Q Can you recall any other depositions that</p> <p>17 you had taken?</p> <p>18 A Let's see.</p> <p>19 We covered Worman, Kolbe, Duncan, and you</p> <p>20 said -- was there a Highland Park one too or did you</p> <p>21 cover that?</p> <p>22 Q The Friedman versus the City of</p> <p>23 Highland Park?</p> <p>24 A I think that's about it. Six or seven of</p> <p>25 them.</p> <p style="text-align: right;">Page 9</p>

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## Deposition of James Curcuruto

<p>1 Q And in each of those cases, you testified 2 on behalf of plaintiffs; is that correct? 3 A Correct. 4 Q And in each of those cases, plaintiffs were 5 seeking to invalidate a firearms restriction; 6 correct? 7 A The cases were, I think, to show the 8 commonality of either the AR platform modern 9 sporting rifle or the high-capacity magazine, I 10 think defined as holding 11-plus rounds. 11 Q But to the best of your recollection, in 12 each of those cases, plaintiffs were seeking to 13 invalidate some kind of firearms restriction; 14 correct? 15 A Yeah. 16 I think they wanted to be able to possess 17 one or two of those -- either the firearm or the 18 magazine. 19 Q And to the best -- I'm sorry. 20 A I'm sorry. Legally possess, yeah. 21 Q And in each of those cases, there was a 22 local, state, or federal restriction preventing them 23 from doing so; correct? 24 A I believe so, yes. 25 Q I'm going to pull up a document that I'd</p> <p style="text-align: right;">Page 10</p>	<p>1 ask you some questions about it. 2 Please just review it and let me know when 3 you want me to scroll down. 4 A Okay. Wiese versus Bonta. He's the 5 Attorney General, I believe; right? 6 You can scroll down. That's good. 7 I'm at line 14. If you can scroll up or 8 down. 9 Okay. You can go to the next page up. 10 Okay. 11 Q So that's the end of the document. I'll 12 scroll back up to the first page. 13 So this document is entitled 14 "Notice of Deposition of James Curcuruto." 15 Mr. Curcuruto, have you seen this document 16 before? 17 A I have. 18 Q When did you see it? 19 A I don't know. Mr. Lee had sent it to me 20 recently. I don't know the exact date. 21 Q Would you say within the past week? 22 A Past week or two probably. Yeah. Within 23 the past week or two. 24 Q Have you reviewed this document in full 25 prior to today?</p> <p style="text-align: right;">Page 12</p>
<p>1 like to mark as Exhibit 1. 2 (The document referred to was marked as 3 Deposition Exhibit 1 by the Reporter.) 4 BY MR. MEYERHOFF: 5 Q And throughout the deposition, 6 Mr. Curcuruto, I'm going to pull up exhibits. The 7 way to work over Zoom is I'll screen-share them. 8 You are unable to control the scrolling function. 9 I'll show you the document and you let me know when 10 you want me to scroll down. 11 A Sounds good. 12 Q Can you see the document up on the screen? 13 The first words at the top are on 1 "Rob Bonta, 14 Attorney General of California"? 15 A Yes. 16 Q And you see in the middle of the page, 17 "Notice of Deposition of James Curcuruto"? 18 A Correct; yeah. 19 Q I'm pronouncing your name correct; is that 20 correct? 21 A Very good. 22 Q Thank you. 23 I'm going to have you review -- this is 24 just a three-page document. 25 I'll have you review the whole thing. I'll</p> <p style="text-align: right;">Page 11</p>	<p>1 A I have read it, yes, sir. 2 Q Did you discuss it with Mr. Lee? 3 A I did. 4 Q What was the substance of your discussion 5 with Mr. Lee about this document? 6 A Just to make sure I had received it and 7 read it and also the request for documents. 8 You know, I -- I do not have access to any 9 past documents after a job change. 10 Q And what, if anything else, did Mr. Lee say 11 about this document? 12 A Not much. Not much in the document. 13 Q Did he ask you if you had access to any of 14 the documents mentioned in the requests? 15 A He did. He asked me to look to see what I 16 could find. 17 Q Let's scroll down to that on page 3. 18 Do you see where it says "Individual 19 Requests" 1: 20 "All non-privileged documents, 21 data, or information in electronic 22 form that you received, reviewed, or 23 relied upon in forming your opinions 24 in this litigation"? 25 Do you see that?</p> <p style="text-align: right;">Page 13</p>

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<p>1 A Yes.</p> <p>2 Q So -- do any documents exist that are</p> <p>3 responsive to that request?</p> <p>4 A I believe the original deposition I had</p> <p>5 done in 2017 concerning this case. I had -- Mr. Lee</p> <p>6 had sent that to me as well and I had reviewed that</p> <p>7 and that had, I believe, one exhibit which was the</p> <p>8 Magazine Chart I had helped create back in 2017 or</p> <p>9 '16.</p> <p>10 I think it was when I was with the</p> <p>11 National Shooting Sports Foundation.</p> <p>12 Q Are there any documents that exist that are</p> <p>13 responsive to this request?</p> <p>14 A They exist but not in my possession.</p> <p>15 Q And what are those documents that exist</p> <p>16 that are not in your possession?</p> <p>17 A Just one -- Request No. 1? Is that the one</p> <p>18 we're looking at?</p> <p>19 Q That's correct.</p> <p>20 A Opinions of this litigation.</p> <p>21 So materials I had used to create that</p> <p>22 one-page document, I'm sure there are records of</p> <p>23 those somewhere but not in my possession.</p> <p>24 Q What were those materials that you had used</p> <p>25 to create the one-page document?</p> <p style="text-align: right;">Page 14</p>	<p>1 And I had left the NSSF in 2021; so I</p> <p>2 assume any documents, you know, that were in my</p> <p>3 office at the time are probably long gone, but I</p> <p>4 don't have knowledge if they are there or -- or</p> <p>5 gone.</p> <p>6 Q But to the best of your knowledge in</p> <p>7 creating the Magazine Chart, you only relied on</p> <p>8 physical documents from the U.S. ITC and ATF AFMER;</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 For the most part, those documents form the</p> <p>12 basis and then I created a draft report and</p> <p>13 discussed that with some coworkers to -- that had</p> <p>14 expertise in the industry to make sure I was on the</p> <p>15 right track and wasn't going to put anything out</p> <p>16 that wasn't as correct as it can be.</p> <p>17 Q Looking at Request No. 2:</p> <p>18 "All opinions, reports, and</p> <p>19 similar documents that you have</p> <p>20 provided in other lawsuits,</p> <p>21 arbitrations, or administrative</p> <p>22 proceedings, or any other judicial or</p> <p>23 quasi-judicial proceedings, that</p> <p>24 involve issues or topics similar to</p> <p>25 those on which you have provided</p> <p style="text-align: right;">Page 16</p>
<p>1 A I believe, according to that original</p> <p>2 declaration or deposition in 2017, to help create</p> <p>3 that one-page NSSF Magazine Chart, I use sources</p> <p>4 such as the U.S. ITC, the International</p> <p>5 Trade Commission's import/export data and the ATF's</p> <p>6 AFMER reports, which, I believe are --</p> <p>7 THE REPORTER: I'm sorry. What is that?</p> <p>8 THE WITNESS: AFMER, A-F-M-E-R. Annual</p> <p>9 Firearms Manufacturing Export Reports.</p> <p>10 So those are -- you know, there's documents</p> <p>11 of those, I'm sure available somewhere that I used</p> <p>12 as a basis to create that one pager.</p> <p>13 I just don't have them anymore.</p> <p>14 BY MR. MEYERHOFF:</p> <p>15 Q And are there any other documents that</p> <p>16 exist that you received, reviewed, or relied upon in</p> <p>17 creating the Magazine Chart?</p> <p>18 A Not that I'm aware of.</p> <p>19 I -- I don't have any in my possession.</p> <p>20 Q But do any -- do any other documents, other</p> <p>21 than the U.S. ITC documents, the ATF AFMER</p> <p>22 documents, exist in your possession or not that you</p> <p>23 relied upon in creating the Magazine Chart?</p> <p>24 A Not that I'm aware of. You know, it was</p> <p>25 created whenever it was -- 2016, 2017.</p> <p style="text-align: right;">Page 15</p>	<p>1 opinions in this case."</p> <p>2 Do you have any such documents?</p> <p>3 A I do not.</p> <p>4 Q But other such documents exist; correct?</p> <p>5 A Same answer as before. There may or may</p> <p>6 not be documents that NSSF -- actually, the building</p> <p>7 that, you know, I had an office in was sold and I --</p> <p>8 I have a feeling that they have -- you know, they</p> <p>9 don't have a lot of documents.</p> <p>10 But I'm 100 percent unaware of what exists</p> <p>11 or doesn't exist that NSSF -- or aware, if they do</p> <p>12 exist, where they might be.</p> <p>13 Q But to be clear, you filed declarations in</p> <p>14 other cases; correct?</p> <p>15 A I have, yes.</p> <p>16 Q And it's fair to say, based on your</p> <p>17 previous answer, that you haven't retained copies of</p> <p>18 any of those declarations; correct?</p> <p>19 A I have not.</p> <p>20 Q Going to Request No. 3:</p> <p>21 "All non-privileged information</p> <p>22 and documents received or acquired by</p> <p>23 you from any source concerning this</p> <p>24 litigation."</p> <p>25 Do you have any such documents in your</p> <p style="text-align: right;">Page 17</p>



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<p>1 possession?</p> <p>2 A The only other document Mr. Lee had sent me</p> <p>3 was, I think, a memo or memorandum of this case,</p> <p>4 about a 40-page document.</p> <p>5 Q And do you know was this a memo that</p> <p>6 Mr. Lee prepared?</p> <p>7 A I am not sure who prepared it. It's just</p> <p>8 kind of a review of the case.</p> <p>9 Q Any other documents received from anyone</p> <p>10 else?</p> <p>11 A No.</p> <p>12 Q What did you do to prepare for this</p> <p>13 deposition?</p> <p>14 A I did read the three documents we</p> <p>15 discussed, the original deposition from 2017, the</p> <p>16 three-page declaration, and then I reviewed the</p> <p>17 40-page -- I think it was a memo of points, and I</p> <p>18 had a phone call with Mr. Lee earlier in the week.</p> <p>19 Q What did you discuss on that phone call</p> <p>20 with Mr. Lee?</p> <p>21 A Sort of a refresher of, you know, how the</p> <p>22 day would go. Again, it'd be an online Zoom meeting</p> <p>23 and go through the points of the documents received.</p> <p>24 Q Did Mr. Lee tell you any questions you</p> <p>25 should expect?</p> <p style="text-align: right;">Page 18</p>	<p>1 helping out.</p> <p>2 Q When did that phone call when he asked if</p> <p>3 you would be interested in helping out occur?</p> <p>4 A I'm not sure. Maybe a month ago.</p> <p>5 Q What did you tell Mr. Lee when he asked if</p> <p>6 you would be willing to help out?</p> <p>7 A I said "Sure." So I'm here.</p> <p>8 Q Did you speak with anyone else about this</p> <p>9 deposition?</p> <p>10 A I have not.</p> <p>11 Q You haven't spoken to any friends about</p> <p>12 this deposition?</p> <p>13 MR. LEE: Asked and answered.</p> <p>14 You may answer.</p> <p>15 THE WITNESS: Oh. Not really. I mean,</p> <p>16 just -- you know, my -- my main job is keeping me</p> <p>17 busy and that's my main focus with the company that</p> <p>18 I'm with now.</p> <p>19 This is just something that seemingly was</p> <p>20 going to be a quick request and -- to corroborate</p> <p>21 what had happened in 2017 with that one exhibit;</p> <p>22 so --</p> <p>23 BY MR. MEYERHOFF:</p> <p>24 Q You said "Not really." I just want to be</p> <p>25 absolutely clear.</p> <p style="text-align: right;">Page 20</p>
<p>1 A We discussed -- yeah. We discussed that,</p> <p>2 yes.</p> <p>3 Q And what questions did Mr. Lee tell you to</p> <p>4 expect?</p> <p>5 A State your name, your background, what your</p> <p>6 current position is, and knowledge, then, of the</p> <p>7 Magazine Chart.</p> <p>8 Q Did you discuss the substance of your</p> <p>9 opinions with Mr. Lee on that phone call?</p> <p>10 A Not in depth.</p> <p>11 Q But generally?</p> <p>12 A Yeah.</p> <p>13 In regards to the -- the one exhibit, the</p> <p>14 Magazine Chart.</p> <p>15 Q And what did you tell Mr. Lee about the</p> <p>16 Magazine Chart?</p> <p>17 A It was something I had created when I was</p> <p>18 with the National Shooting Sports Foundation, and we</p> <p>19 discussed it; it had been updated and if I had any</p> <p>20 records of that to which I replied I'd look, and I</p> <p>21 was unable to find any updated documents.</p> <p>22 Q And you only had that one phone call with</p> <p>23 Mr. Lee with regard to this deposition; correct?</p> <p>24 A With regard to the deposition -- we had one</p> <p>25 previously when he asked if I would be interested in</p> <p style="text-align: right;">Page 19</p>	<p>1 Have you mentioned this deposition to</p> <p>2 anyone else other than Mr. Lee?</p> <p>3 A I -- about a half hour ago, before -- my</p> <p>4 17-year-old son woke up and I said "Don't come</p> <p>5 downstairs." He asked why I was all dressed up. I</p> <p>6 said "I'm going to go do a deposition" but didn't</p> <p>7 get into any of the details.</p> <p>8 Q And I'll take it that that was the only</p> <p>9 person that you've mentioned it to?</p> <p>10 A Correct.</p> <p>11 MR. MEYERHOFF: I want to pull up a</p> <p>12 document that I'll mark as Exhibit 2.</p> <p>13 (The document referred to was marked as</p> <p>14 Deposition Exhibit 2 by the Reporter.)</p> <p>15 BY MR. MEYERHOFF:</p> <p>16 Q Do you see this document? The first line</p> <p>17 is -- says Number 1 and then it says "George M. Lee"</p> <p>18 at the top?</p> <p>19 A Yes.</p> <p>20 Q I will -- it's a three-page document. I'll</p> <p>21 just give you a chance to review the whole thing; so</p> <p>22 if you want to review it and then when you want me</p> <p>23 to scroll down, just let me know.</p> <p>24 A Okay. You can scroll down a little bit.</p> <p>25 Okay.</p> <p style="text-align: right;">Page 21</p>



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<p>1 Okay.</p> <p>2 Q I'm only going to ask you questions about</p> <p>3 the first two pages.</p> <p>4 A Okay.</p> <p>5 Q So scroll back up to page 2.</p> <p>6 Do you see the second sentence on page 2?</p> <p>7 It says:</p> <p>8 "Plaintiffs have not yet retained</p> <p>9 or disclosed Mr. Curcuruto as an</p> <p>10 expert witness, but reserve the right</p> <p>11 to so designate and disclose as such</p> <p>12 within the time provided by</p> <p>13 Federal Rule of Civil Procedure</p> <p>14 26(a)(2)(D)(i)."</p> <p>15 Do you see that?</p> <p>16 A I do.</p> <p>17 Q Is it an accurate statement that the</p> <p>18 plaintiffs have not yet retained you as an expert</p> <p>19 witness?</p> <p>20 A Correct.</p> <p>21 Q So you have no written agreement with</p> <p>22 plaintiffs; correct?</p> <p>23 A No.</p> <p>24 Q And are you being compensated by plaintiffs</p> <p>25 for your time here today?</p> <p style="text-align: right;">Page 22</p>	<p>1 Q Just to be clear, the memo, the points and</p> <p>2 authorities that Mr. Lee provided you, and what were</p> <p>3 the other two documents? Sorry.</p> <p>4 A The original deposition; I think about a</p> <p>5 six-page document; and then the declaration, the</p> <p>6 three-page document about today's declaration [as</p> <p>7 spoken].</p> <p>8 Q To be clear, when you say "the original</p> <p>9 deposition," do you actually mean the original</p> <p>10 declaration that you filed in this case in 2017?</p> <p>11 A It was a six-page document and it had the</p> <p>12 one attached exhibit, with the Magazine Chart. I'm</p> <p>13 not sure if it was -- getting confused on</p> <p>14 "declaration" versus "deposition."</p> <p>15 MR. LEE: And objection -- I object to the</p> <p>16 question. Assumes facts. He didn't file anything.</p> <p>17 BY MR. MEYERHOFF:</p> <p>18 Q And then the other document you're</p> <p>19 referring to, is that the Notice of Deposition that</p> <p>20 we looked at earlier as Exhibit 1?</p> <p>21 A The three-page document?</p> <p>22 Q Yeah. That's correct.</p> <p>23 A Yes.</p> <p>24 Q Do you recall when you first became</p> <p>25 involved in this case?</p> <p style="text-align: right;">Page 24</p>
<p>1 A I am not.</p> <p>2 Q Are you being compensated by anyone for</p> <p>3 your time here today?</p> <p>4 A I am not.</p> <p>5 Q So you have not been retained as an expert</p> <p>6 witness.</p> <p>7 Is it your understanding that you are</p> <p>8 giving expert testimony here today?</p> <p>9 A I think I'm just providing my opinion and</p> <p>10 corroborating or -- what had taken place back in --</p> <p>11 when I submitted that original document and kind of</p> <p>12 tell you -- answer any questions about how that</p> <p>13 original document came about.</p> <p>14 MR. LEE: And let me just interpose an</p> <p>15 objection. Lacks foundation. Calls for</p> <p>16 speculation.</p> <p>17 BY MR. MEYERHOFF:</p> <p>18 Q Have you reviewed the original Complaint</p> <p>19 filed by plaintiffs in this case?</p> <p>20 A Unless it was one of those three documents,</p> <p>21 no.</p> <p>22 Q And just to be -- I'm sorry. I</p> <p>23 interrupted.</p> <p>24 A Just the three documents I mentioned</p> <p>25 earlier, just to clarify.</p> <p style="text-align: right;">Page 23</p>	<p>1 A Going back to the 2017 filing or --</p> <p>2 Q Was the 2017 filing the first time you were</p> <p>3 involved in this case?</p> <p>4 A I'm not sure. You know, this case is, I</p> <p>5 think, different than the original 2017 one. We</p> <p>6 were talking about that one exhibit.</p> <p>7 I'm a little confused on, you know, this</p> <p>8 case versus other cases.</p> <p>9 Q To the best of your recollection, has</p> <p>10 Mr. Lee ever been the plaintiffs' attorney in</p> <p>11 another case that you participated in?</p> <p>12 A Yes. I believe so.</p> <p>13 Q Okay. Do you recall when the first time --</p> <p>14 let me rephrase.</p> <p>15 When was the first time you've heard about</p> <p>16 this specific case?</p> <p>17 A If you want to name this case for me? This</p> <p>18 is the Wiese/Bonta one? Was it known as something</p> <p>19 previously?</p> <p>20 Q When was the first time you heard about the</p> <p>21 Wiese case, previously known as Wiese v Becerra, now</p> <p>22 known as Wiese versus Bonta?</p> <p>23 A I'm not sure.</p> <p>24 I know I got refreshed on it with Mr. Lee</p> <p>25 recently, but I'm not sure if I had dealt with it</p> <p style="text-align: right;">Page 25</p>

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<p>1 previously.</p> <p>2 Q Do you know how you first became aware of</p> <p>3 this case, the Wiese case?</p> <p>4 A I'm not sure specifically how I became</p> <p>5 aware of this case.</p> <p>6 Q Do you recall who you first spoke with</p> <p>7 about this case?</p> <p>8 A I do not.</p> <p>9 MR. MEYERHOFF: I want to go ahead and pull</p> <p>10 up what I'm going to mark as Exhibit 3.</p> <p>11 (The document referred to was marked as</p> <p>12 Deposition Exhibit 3 by the Reporter.)</p> <p>13 BY MR. MEYERHOFF:</p> <p>14 Q It's a six-page document entitled</p> <p>15 "Declaration of James Curcuruto in Support of</p> <p>16 Plaintiffs' Motion for Temporary Restraining Order</p> <p>17 and Issuance of a Preliminary Injunction."</p> <p>18 Do you see that towards the middle of the</p> <p>19 page?</p> <p>20 A I do.</p> <p>21 Q Is this the six-page document you were</p> <p>22 referring to previously?</p> <p>23 A If you could just -- I think the one that I</p> <p>24 had seen had an exhibit at page 6 and dated 2017; so</p> <p>25 if you could just kind of scroll down so I could see</p> <p style="text-align: right;">Page 26</p>	<p>1 Do you see that?</p> <p>2 A Correct. Yes.</p> <p>3 Q And do you see below that, there's a</p> <p>4 signature?</p> <p>5 A That's me, yeah.</p> <p>6 Q And that's your signature; correct?</p> <p>7 A It is.</p> <p>8 Q And do you recall signing this document?</p> <p>9 A I do.</p> <p>10 Q Did you write this document?</p> <p>11 A I believe so.</p> <p>12 Q And did plaintiffs' counsel provide you</p> <p>13 with any edits to this document?</p> <p>14 A I do not recall.</p> <p>15 Q Do you recall reviewing this document with</p> <p>16 plaintiffs' counsel before signing it?</p> <p>17 A I do not recall, but it, most likely, would</p> <p>18 have been reviewed by the plaintiffs' side before</p> <p>19 getting submitted -- being submitted.</p> <p>20 Q You submitted declarations in other cases;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q And is that a similar -- let me rephrase.</p> <p>24 Is that the general practice with the</p> <p>25 declarations you have submitted?</p> <p style="text-align: right;">Page 28</p>
<p>1 the rest of it?</p> <p>2 Q Sure.</p> <p>3 A They all look the same.</p> <p>4 Okay. You can keep going.</p> <p>5 Okay. You can keep going.</p> <p>6 Okay. Yeah. 2017.</p> <p>7 So it was just a different defendant, I</p> <p>8 suppose, at the time; is that correct? Same</p> <p>9 plaintiff?</p> <p>10 Q Yeah. It's -- Becerra was the</p> <p>11 Attorney General.</p> <p>12 A Okay. So this, I believe, was the first</p> <p>13 time I had heard of this and I'm not sure, you know,</p> <p>14 if -- the process at NSSF, when I was there, if</p> <p>15 someone needed help, usually -- you know, Mr. Lee</p> <p>16 probably would have probably went through our</p> <p>17 government relations team and then they would have</p> <p>18 contacted me.</p> <p>19 That was the standard practice back then.</p> <p>20 Q So looking at this document on the middle</p> <p>21 of page 4 of the pdf, it says:</p> <p>22 "I declare under penalty of</p> <p>23 perjury that the foregoing is true</p> <p>24 and correct. Executed within the</p> <p>25 United States on June 9, 2017."</p> <p style="text-align: right;">Page 27</p>	<p>1 A There was a very similar process, you know,</p> <p>2 of requests would come in, again, normally filtered</p> <p>3 through our government relations team, and then they</p> <p>4 would reach out to me and ask if, you know, the --</p> <p>5 we had materials that were available and time</p> <p>6 available to support any effort.</p> <p>7 And then I would be in contact with the</p> <p>8 plaintiffs' attorney and submit a declaration and</p> <p>9 then go on from there.</p> <p>10 Q Did you discuss this declaration with</p> <p>11 anyone at NSSF?</p> <p>12 A Oh, I'm sure, yeah.</p> <p>13 Q Who do you think you would have discussed</p> <p>14 it with?</p> <p>15 A We had two associate general counsels</p> <p>16 during my time at NSSF. The first one I worked with</p> <p>17 was Jeff Yue, I think Y-u-e, and then I'm not sure</p> <p>18 when he left. Maybe -- might have been before or</p> <p>19 after this one.</p> <p>20 And then Benjamin -- can't remember his</p> <p>21 last name -- was the second associate general</p> <p>22 counsel that I worked with on declarations like</p> <p>23 these.</p> <p>24 Ben -- hmm. Sorry. I can't remember his</p> <p>25 last name.</p> <p style="text-align: right;">Page 29</p>

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<p>1 Q Would you have discussed it with anyone 2 other than the associate general counsels at NSSF? 3 A I'm sure I informed my direct superior, you 4 know, just on -- update on what type of work I 5 was -- had on my plate. 6 Q And who was your direct superior at the 7 time you wrote this declaration? 8 A Most likely, Randy Clark. If not 9 Randy Clark, maybe Chris Dolmack, D-o-l-m-a-c-k. 10 I can't think of Ben's last name, but it 11 will come to me. 12 Q So is it fair to say that you drafted this 13 declaration within the scope of your employment at 14 NSSF? 15 A Yes. 16 Q You drafted it on company time; correct? 17 A Correct. 18 Q Were you paid any additional money beyond 19 your salary to draft this declaration? 20 A I was not. 21 Q I want to shift gears and ask you -- 22 actually, let me ask you another question. 23 You wrote this declaration in 2017; 24 correct? 25 A Correct.</p> <p style="text-align: right;">Page 30</p>	<p>1 blue at the top of the page. It's got two lines on 2 top of each other. 3 BY MR. MEYERHOFF: 4 Q Do you have any understanding of what those 5 blue lines represent? 6 A I believe they are just -- show the -- I 7 can't even read it. 8 But -- maybe just an overview of what the 9 document is. 10 Q Do you know why there is two lines 11 superimposed over each other? 12 A I do not. 13 MR. LEE: Objection. Calls for 14 speculation. 15 Well, never mind. 16 BY MR. MEYERHOFF: 17 Q Are you aware that this declaration was 18 filed a second time? 19 A I don't recall. 20 Q In your conversations with Mr. Lee -- I 21 believe there's been two conversations within 22 approximately the last month with Mr. Lee; correct? 23 A Correct. 24 Q And have you spoken with Mr. Ray DiGuiseppe 25 about this case?</p> <p style="text-align: right;">Page 32</p>
<p>1 Q And were you aware that this declaration 2 was subsequently filed by the plaintiffs in the 3 Wiese case? 4 A I believe -- yeah. That was the process at 5 the time. I believe that had taken place. 6 Q You testified previously that you spoke 7 with Mr. Lee approximately a month ago and he asked 8 about your willingness to -- to be deposed in this 9 case; correct? 10 A Yes. 11 Q When, previous to that time a month ago, 12 was the last time you had spoken with Mr. Lee about 13 this case? 14 A May have been back in '17. 15 Q But it hadn't been the past year; correct? 16 A I don't believe so. 17 Q Looking at this document, the top of the 18 page, page 4, do you see the purple writing at the 19 top of the page? 20 A The share has gone away from my computer. 21 MR. MEYERHOFF: I'm sorry. Let me share 22 that again. 23 THE WITNESS: Good old modern technology. 24 I do see that -- it's back on. I do see it 25 but it's almost doubled up here. I can't read that</p> <p style="text-align: right;">Page 31</p>	<p>1 A I do not believe so. 2 Q In either of your conversations with 3 Mr. Lee over the past month, did he tell you that 4 your declaration had been refiled this year? 5 A I do not recall. 6 Q So to be clear, at no point within the past 7 year did Mr. Lee contact you and ask you whether the 8 opinions included in this declaration filed in 2017 9 were still your opinions today; correct? 10 A Did he ask me if they were still my 11 opinions? 12 Q Yes. That's correct. 13 A On the Magazine Chart or this declaration? 14 Q Yes. 15 A Yeah. We discussed that. 16 Q All right. You discussed that a month ago; 17 correct? 18 A Correct. 19 Q Prior to that, did Mr. Lee ask that 20 question? 21 A Not to my knowledge. 22 Q You graduated from college; correct, 23 Mr. Curcuruto? 24 A I did. 25 Q You graduated from UNC Wilmington; correct?</p> <p style="text-align: right;">Page 33</p>

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1 A Correct.  
 2 Q What degree did you obtain there?  
 3 A A Bachelor's in business administration.  
 4 Q And did you attend graduate school?  
 5 A I did not.  
 6 Q At UNC Wilmington, did you take any  
 7 statistics classes?  
 8 A Just the one to help meet the requirements  
 9 of -- the course requirements for that degree.  
 10 Q So it's your testimony today that you took  
 11 a statistics class at UNC Wilmington?  
 12 A I believe so. It was 1991. I think it was  
 13 part of the curriculum.  
 14 Q And do you recall specifically what was  
 15 taught in that class?  
 16 A No. Just general.  
 17 Q Okay. Let me talk a little bit about your  
 18 employment history.  
 19 You served as a marketing manager at the  
 20 Other List Company; correct?  
 21 A Correct.  
 22 Q And that was from 1996 to 2005; correct?  
 23 A It's about -- sounds about right.  
 24 Q What did you do as a marketing manager at  
 25 the Other List Company?

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1 A I was responsible -- there was some new  
 2 client acquisition and transactions between clients.  
 3 Q What does "new client acquisition" mean?  
 4 A You know, we would try to sign on new  
 5 clients to add to our -- our existing clients.  
 6 Q What did the Other List Company do?  
 7 A They were a direct marketing firm focused  
 8 on direct mail campaigns.  
 9 Q Were you successful in your new client  
 10 acquisition?  
 11 A Yes.  
 12 Q And then you next were at Scholastic, Inc.;  
 13 correct?  
 14 A Correct.  
 15 Q And you were a marketing manager there as  
 16 well?  
 17 A Correct.  
 18 Q And you were there from approximately 2005  
 19 to 2006; correct?  
 20 A Yes.  
 21 Q And what did you do in your role as  
 22 marketing manager at Scholastic, Inc.?  
 23 A Did some analysis of the programs they had  
 24 there and worked with their marketing team to test  
 25 some of the campaigns to see which performed better.

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1 Q And is it fair to say that the goal at  
 2 Scholastic, Inc., was new client acquisition?  
 3 A No. Not from my position.  
 4 Q What was the goal of your position?  
 5 A Just trying to determine the most  
 6 cost-effective campaigns.  
 7 Q And who were your clients at Scholastic,  
 8 Inc.?  
 9 A I just worked for the company, Scholastic.  
 10 They were a book publisher. Like "Harry Potter" was  
 11 their big book at the time, but I worked in their  
 12 continuity program division.  
 13 Q What does -- what does the continuity  
 14 division do?  
 15 A You may recall offers where, you know, you  
 16 buy one book for one dollar and then you sign up and  
 17 you get six free but then you've got to buy, you  
 18 know, five more at \$5.00, and they were children's  
 19 book titles, "Dr. Seuss," Disney.  
 20 Golden books were the ones I really worked  
 21 with.  
 22 Q I remember the Scholastic book fair.  
 23 A Right.  
 24 Q And -- and so the clients of Scholastic,  
 25 Inc., are end users; right? Consumers; correct?

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1 A Correct.  
 2 Q Just going back up a second.  
 3 Why did you leave the Other List Company?  
 4 A Just was looking to increase my revenue  
 5 and, you know, try something different.  
 6 Q You were not terminated from the  
 7 Other List Company; correct?  
 8 A Correct.  
 9 Q And then why did you leave Scholastic,  
 10 Inc.?  
 11 A They were going through a transition period  
 12 and had to reduce payroll. It was probably the  
 13 start of people not reading books anymore. Not a  
 14 good business decision.  
 15 Q So it's fair to say you were laid off;  
 16 correct?  
 17 A Correct.  
 18 Q To the best of your knowledge, did that  
 19 layoff have to do with any performance-related  
 20 issues on your part?  
 21 A I don't believe so.  
 22 Q After Scholastic, Inc., you served as  
 23 executive director at Marketing Memories, LLC;  
 24 correct?  
 25 A Correct.

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1 Q And you did that from approximately 2006 to  
2 2009; correct?  
3 A Correct.  
4 Q And you were also the owner of this  
5 company; correct?  
6 A I was.  
7 Q Were you the sole owner of the company?  
8 A Yes.  
9 Q And how many employees did you have at  
10 Marketing Memories?  
11 A Just me.  
12 Q And is it fair so say that the -- the  
13 business of Marketing Memories was about selling  
14 personalized engraved products?  
15 A Yes.  
16 Q So you were sort of -- I imagine you were a  
17 jack-of-all-trades at the -- at the company;  
18 correct?  
19 A Correct.  
20 Q Did you have any other jobs before you  
21 joined NSSF that we haven't previously mentioned?  
22 A Oh, yeah. I had plenty of jobs growing up  
23 and previous to, I think, the first one you  
24 mentioned was -- was the Other List Company.  
25 Q Were those jobs in the service industry?

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1 A Sure. Everything from a paper route to  
2 landscaping to working at retail stores.  
3 Q Did any of those retail stores sell  
4 firearms?  
5 A Yes.  
6 Q Which one or ones?  
7 A The Sports Authority.  
8 And Track -- I worked at companies that no  
9 longer exist.  
10 Q This deposition is a trip down memory lane.  
11 Sports Authority, Scholastic.  
12 Were you -- at the Sports Authority, were  
13 you involved in the sale of firearms?  
14 A I was not. I had worked there part-time at  
15 nights for a couple years. They brought the  
16 firearms toward the end. They were not there in my  
17 store for very long.  
18 Q When you say they brought them in at the  
19 end, you mean at the beginning of your employment,  
20 they did not sell firearms and then towards the end  
21 of your employment, they did; correct?  
22 A Correct.  
23 Q Do you recall what year this was or years  
24 when you were employed at the Sports Authority?  
25 A 1995-ish.

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1 Q Do you have an understanding of why the  
2 Sports Authority decided to start selling firearms  
3 around 1995?  
4 MR. LEE: Objection. Lacks foundation.  
5 Calls for speculation.  
6 BY MR. MEYERHOFF:  
7 Q You can answer.  
8 A Okay. Then no, I did not.  
9 Q Do you recall what type of firearms the  
10 Sports Authority sold while you worked there?  
11 A I believe they had long guns, which -- you  
12 know, shotguns and rifles.  
13 Q Do you recall if they sold magazines while  
14 you worked there?  
15 A I do not.  
16 Q So before your employment at NSSF, is it  
17 fair to say that your primary professional focus was  
18 marketing?  
19 A Yes. Marketing, sales.  
20 Q Prior to your time at NSSF, have you had  
21 any experience with companies in the firearms  
22 industry?  
23 A A few of our clients at the  
24 Other List Company were in the outdoor space and  
25 then also, obviously, the Sports Authority which we

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1 already discussed.  
2 Q When you say "the outdoor space," what do  
3 you mean?  
4 A Hunting, fishing, camping, shooting.  
5 Q So in 2009, you started your employment at  
6 NSSF; correct?  
7 A Correct.  
8 Q What does "NSSF" stand for?  
9 A The National Shooting Sports Foundation.  
10 Q And how did you first become aware of the  
11 role you were eventually hired for at NSSF?  
12 A I believe I saw the ad in a -- in a local  
13 newspaper or potentially an online website job  
14 board.  
15 Q And why did you decide to apply for this  
16 role?  
17 A Couple reasons: One, the company that I  
18 had owned was, you know -- wasn't as successful as I  
19 was hoping it would be.  
20 Second, I had grown up hunting, fishing,  
21 camping, and the NSSF was in that space.  
22 So those were the two primary reasons.  
23 Q And can you describe briefly what the  
24 interview and hiring process was like for NSSF for  
25 that role?

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<p>1 A Sure.</p> <p>2 Best of my recollection, submitted paper</p> <p>3 interview; mailed it in.</p> <p>4 Resume. Cover letter. Mailed it in.</p> <p>5 I was contacted by -- I think they had used</p> <p>6 a third party to kind of sort through all the</p> <p>7 applicants and I made it past that initial review</p> <p>8 and then had interviews, several interviews, with</p> <p>9 staff at NSSF.</p> <p>10 Q And you were initially hired as the</p> <p>11 director of industry research and analysis; correct?</p> <p>12 A Correct.</p> <p>13 Q And you had testified previously that your</p> <p>14 main area of professional focus, prior to joining</p> <p>15 NSSF, was in marketing; correct?</p> <p>16 A Correct.</p> <p>17 Q To the best of your knowledge, why do you</p> <p>18 think NSSF hired you for this</p> <p>19 industry-research-and-analysis role?</p> <p>20 MR. LEE: Objection. Calls for</p> <p>21 speculation. Lacks foundation.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: I believe, you know, my</p> <p>24 knowledge of the industry, my just personal</p> <p>25 experiences with the industry, my background in</p> <p style="text-align: right;">Page 42</p>	<p>1 formed, the Marketing Memories, framed that</p> <p>2 movement. And I had to research which particular</p> <p>3 market I thought would be best for the personalized</p> <p>4 products, that sort of stuff.</p> <p>5 Q And what sources of information did you</p> <p>6 look at in making that determination?</p> <p>7 A Let me think back. Just a lot of, I guess,</p> <p>8 internet searches and looking up -- I remember --</p> <p>9 you know, the markets we were looking at were birth</p> <p>10 rate, death rate, number of anniversaries, number of</p> <p>11 weddings.</p> <p>12 When you were making -- when we were making</p> <p>13 personalized products, we wanted to know why people</p> <p>14 would buy those and they were mainly for birthdays,</p> <p>15 anniversaries, births, deaths.</p> <p>16 We kind of analyzed how many people were</p> <p>17 born a year, how many people died a year.</p> <p>18 Obviously, birthdays are easy to figure out. That</p> <p>19 type of stuff.</p> <p>20 Q When you worked at the Other List and at</p> <p>21 Scholastic, were there research directors at either</p> <p>22 company?</p> <p>23 A I don't recall.</p> <p>24 Q Do you recall receiving any research</p> <p>25 training at either job?</p> <p style="text-align: right;">Page 44</p>
<p>1 marketing.</p> <p>2 Also encompassed when I worked at</p> <p>3 Scholastic, the analysis part of it.</p> <p>4 BY MR. MEYERHOFF:</p> <p>5 Q The Scholastic you mentioned was the -- you</p> <p>6 had testified previously about the analysis of</p> <p>7 programs was something you did at Scholastic?</p> <p>8 A Correct.</p> <p>9 Q What do you mean by analysis of programs?</p> <p>10 A Again, with those continuity programs, we</p> <p>11 would do some AB testing with different titles and</p> <p>12 different offers, and I was the person that would</p> <p>13 then say "Okay. Offer A outperformed Offer B.</p> <p>14 Let's now test Offer B versus Offer C."</p> <p>15 Q So it was an analysis -- let me just -- so</p> <p>16 at Scholastic, the analysis of programs was mainly</p> <p>17 geared towards sales? Is that a fair statement?</p> <p>18 A Yes. Which offers outperformed others.</p> <p>19 Looking at numbers and developing a few formulas and</p> <p>20 projecting overall sales for a campaign and then</p> <p>21 determining which one was more cost effective than</p> <p>22 another.</p> <p>23 Q And have you done any research in</p> <p>24 professional roles prior to joining NSSF?</p> <p>25 A You know, with my -- the organization I</p> <p style="text-align: right;">Page 43</p>	<p>1 A Just standard job training. Somebody</p> <p>2 taught me a little bit about getting me up to speed</p> <p>3 on the spreadsheets at Scholastic, and I was on my</p> <p>4 own at Marketing Memories.</p> <p>5 Q But nothing specific about these are the</p> <p>6 best practices to engage in in research; correct?</p> <p>7 A Correct.</p> <p>8 Q And did you work with any statisticians at</p> <p>9 the Other List Company or Scholastic?</p> <p>10 A At Scholastic there were statisticians or</p> <p>11 at least they had some other analysis staff.</p> <p>12 Q And did you receive training from those</p> <p>13 statisticians?</p> <p>14 A I did learn from them.</p> <p>15 Q Do you recall what you learned?</p> <p>16 A Just, again, some of the formulas -- the</p> <p>17 Excel formulas to do forecasting so we could make</p> <p>18 decisions quicker.</p> <p>19 We didn't have to wait for a program to --</p> <p>20 to end all the way out. We would just forecast the</p> <p>21 ones we thought would make the most money so then we</p> <p>22 could move on to the next offer.</p> <p>23 Q Is it fair to say that that training was</p> <p>24 mostly related to formulas in Excel?</p> <p>25 A Yes.</p> <p style="text-align: right;">Page 45</p>

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<p>1 Q And when you ran Marketing Memories, did 2 you employ any -- I guess you testified previously 3 there were no other employees. 4 Did you ever contract with any 5 statisticians with Marketing Memories, LLC? 6 A I did not. 7 Q Did you ever contract with any outside 8 research organizations while you were with 9 Marketing Memories, LLC? 10 A No. 11 Q So returning to NSSF, when you served as 12 director of administrative research and analysis, 13 you reported to the director of business 14 development; correct? 15 A Correct. 16 Q And -- 17 A It might have been the manager of business 18 development. I'm not sure of the title. 19 Q And that was Randy Clark; correct? 20 A Correct. 21 Q And can you describe what the business 22 development department did at NSSF? 23 A They had a couple of divisions -- I don't 24 know divisions but parts to it. 25 There were member services. So NSSF is a</p> <p style="text-align: right;">Page 46</p>	<p>1 THE REPORTER: I would like one. 2 MR. MEYERHOFF: How long? 3 THE REPORTER: Five minutes is great. 4 (A brief recess was taken.) 5 BY MR. MEYERHOFF: 6 Q So when we broke, we were discussing your 7 role as director of industry research and analysis 8 at NSSF. 9 Can you briefly describe what that role 10 entailed? 11 A Sure. 12 I was responsible for most -- conducting 13 most of the research for NSSF, and NSSF is a 14 business-to-business trade association for the 15 firearms industry; so what we tried to do is provide 16 research to our members that would help them make 17 better business decisions. 18 Q And then in 2016, you became director of 19 research and market development; is that correct? 20 A Correct. 21 Q Would that be considered a promotion? 22 A And some added responsibilities. 23 Q And added compensation? 24 A I think it was just a title change. 25 Q What were the added responsibilities that</p> <p style="text-align: right;">Page 48</p>
<p>1 member-based organization; so they had staff that 2 supported member needs; they had some programs -- 3 programs division where they would help try to 4 increase participation in hunting, target shooting; 5 and then the research division was myself and my 6 associate researcher. 7 Q Do you recall receiving annual reviews for 8 performance at NSSF? 9 A I do, yes. 10 Q And those reviews were given by Mr. Clark; 11 correct? 12 A Correct. 13 Q And do you recall what the rubrics were for 14 those reviews? 15 A Just standard forms with, you know, the -- 16 maybe ten -- ten questions on poor to excellent. 17 Q If you recall, generally, what those 18 categories were. 19 A I do not recall specifically, but generally 20 they would have been, like, you know, works well 21 with coworkers, met goals, that type of stuff. 22 MR. MEYERHOFF: I see we're past an hour. 23 Mr. Curcuruto, Ms. Miller, Mr. Lee, would you like a 24 break? 25 THE WITNESS: I'm okay.</p> <p style="text-align: right;">Page 47</p>	<p>1 came with becoming the director of research and 2 market development? 3 A I took over what we call R3, which is 4 recruit new people, retain the ones we have, and 5 reactivate lapsed participants. 6 And that R3 dealt with overall 7 participation in hunting and target shooting; so we 8 tried to increase participation, and that kind of 9 then fell under my responsibilities. 10 Q Did you -- did you lose any of the 11 responsibilities that you previously had when you 12 took on this new role? 13 A I -- the only thing that I had taken off my 14 plate was I had ran an executive management seminar 15 at our -- one of our conferences; so somebody else 16 took that responsibility over. 17 Q What was the -- was it a seminar? 18 A Correct. Yeah. 19 I brought in paid speakers that -- NSSF 20 owned and operated a large business-to-business 21 show, which was called the Shot Show, and at that 22 show, we would provide our attendees education; so 23 the education that -- that program that I developed 24 was for executives just to help them, you know, 25 improve their skill set.</p> <p style="text-align: right;">Page 49</p>



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<p>1 Q And these are executives of firearms 2 companies?</p> <p>3 A Correct.</p> <p>4 The attendees of Shot Show were primarily 5 firearm manufacturers, ammunition manufacturers, and 6 any businesses that had to do with that market. 7 Retailers, ranges, parts manufacturers.</p> <p>8 Q Who did you report to in your role as 9 director of research and market development?</p> <p>10 A At the time I believe it was still 11 Randy Clark and I'm not sure of the time. 12 He had left the organization and then I had 13 reported to Chris Dolmack, and I'm not sure how -- 14 how long I had reported to Randy in my new role and 15 then transferred over reporting to somebody else.</p> <p>16 Q Is it fair to say that the whole time you 17 were at NSSF, you were within the business 18 development division?</p> <p>19 A Correct.</p> <p>20 Q When was your last day of employment at 21 NSSF?</p> <p>22 A Early January 2021. I don't recall the 23 specific date.</p> <p>24 Q Why did you leave NSSF?</p> <p>25 A They had staff reductions due to losing --</p> <p style="text-align: right;">Page 50</p>	<p>1 had a larger salary and -- and controlled a few 2 budgets that she did not.</p> <p>3 BY MR. MEYERHOFF:</p> <p>4 Q Do you know that -- do you know if NSSF 5 ever hired another director of research and market 6 development?</p> <p>7 A I do not believe they have.</p> <p>8 Q Are you familiar with an individual named 9 Salam Fatohi?</p> <p>10 A He was a coworker at the time. I'm not 11 sure. Maybe we were there for two years together. 12 He had worked, I believe, in the government 13 relations division, but at the time we were all home 14 officed to -- due to COVID; so I didn't really have 15 many in-person interactions with Salam.</p> <p>16 Q Have you had any interactions with him, in 17 person or otherwise, since you've left NSSF?</p> <p>18 A I have not.</p> <p>19 Q Do you know what Mr. Fatohi's role was in 20 the government relations division?</p> <p>21 A I believe he was an assistant researcher on 22 the government side of things, politics. 23 But I didn't really delve too much into 24 that. I was busy with my own responsibilities to 25 learn what his were.</p> <p style="text-align: right;">Page 52</p>
<p>1 during COVID, the -- the show that they held, the 2 Shot Show, was canceled and that was a big chunk of 3 their revenue; so they had to have some staff 4 reductions and budget reductions.</p> <p>5 So I got caught up in that.</p> <p>6 Q Is that the reason they told you you were 7 being let go?</p> <p>8 A Correct.</p> <p>9 Q Did they mention any other reasons that 10 they told you you were being let go?</p> <p>11 A They did not.</p> <p>12 Q Who took over your responsibilities, to the 13 best of your knowledge, after you were let go?</p> <p>14 A I had a research assistant that, I assume, 15 most of the responsibilities went to and then I 16 think they had divvied up a lot of other 17 responsibilities among the remaining staff there.</p> <p>18 Q Who was that research assistant?</p> <p>19 A Dianne, with two n's, Vrablic, 20 V-r-a-b-l-i-c.</p> <p>21 Q Do you know why you were let go and 22 Miss Vrablic was not?</p> <p>23 MR. LEE: Objection. Calls for 24 speculation.</p> <p>25 THE WITNESS: Most likely financially. I</p> <p style="text-align: right;">Page 51</p>	<p>1 Q What -- so I take it that NSSF has a 2 government relations division?</p> <p>3 A Correct.</p> <p>4 Q And what does that division do?</p> <p>5 A They -- they mostly focus on the political 6 side of things.</p> <p>7 Q When you say "focus on the political side 8 of things," what do you mean?</p> <p>9 A I know that they had started a government 10 relations office in Washington, D.C., to try to help 11 the industry side of politics and, again, I didn't 12 get too involved in that.</p> <p>13 Q Did you ever discuss -- did you ever 14 discuss the declaration that you submitted in this 15 case with anyone in the government relations 16 division?</p> <p>17 A The original declaration from 2017?</p> <p>18 Q That's correct.</p> <p>19 A Sure.</p> <p>20 That's where I would have worked with that 21 associate general counsel who was part of the 22 government relations team. Ben Erwin. Ben Erwin.</p> <p>23 THE REPORTER: What was -- I'm sorry. What 24 is it?</p> <p>25 THE WITNESS: E-r-w-i-n.</p> <p style="text-align: right;">Page 53</p>

<p>1 He was the associate general counsel that I</p> <p>2 worked with on some of the declarations after the</p> <p>3 original one left.</p> <p>4 Sorry.</p> <p>5 BY MR. MEYERHOFF:</p> <p>6 Q And when you say you worked with the</p> <p>7 associate general counsels on these declarations,</p> <p>8 what do you mean?</p> <p>9 A They would, you know, help walk through the</p> <p>10 process with me and, you know, I would -- I had all</p> <p>11 the research and filled out the declarations and</p> <p>12 they would be, you know, kind of the liaison between</p> <p>13 folks like Mr. Lee.</p> <p>14 Q Did the associate general counsels at NSSF</p> <p>15 ever provide comments on these declarations?</p> <p>16 A I know we discussed them and they probably</p> <p>17 provided some comments, general comments, on</p> <p>18 grammar, that type of stuff.</p> <p>19 Q To the best of your recollection, did NSSF</p> <p>20 oppose California's restrictions on large-capacity</p> <p>21 magazines while you were there?</p> <p>22 A To the best of my knowledge, I know NSSF</p> <p>23 overall would be opposed to anything seen as, you</p> <p>24 know, I guess anti-gun or anti-industry; so things</p> <p>25 like the high-capacity magazine bans or bans on what</p> <p style="text-align: right;">Page 54</p>	<p>1 provided with any other rationales as to why NSSF</p> <p>2 opposed the restrictions on large-capacity</p> <p>3 magazines?</p> <p>4 A No. That was the premise of it, you know,</p> <p>5 helping our members stay in business.</p> <p>6 Q So after you left NSSF in 2021, you formed</p> <p>7 a company called Outdoor Insights, LLC; is that</p> <p>8 correct?</p> <p>9 A Correct. Yeah. Just kind of did some</p> <p>10 consulting. Just -- and then decided to try to</p> <p>11 figure out what I want to do.</p> <p>12 Q What you want to do when you grow up.</p> <p>13 A Exactly.</p> <p>14 Q And what kind of companies did you consult</p> <p>15 for?</p> <p>16 A A few companies within the firearms</p> <p>17 industry.</p> <p>18 I did some -- wrote some articles. Some</p> <p>19 folks paid me to write some articles. The U.S. Fish</p> <p>20 and Wildlife Service was a company that asked me to</p> <p>21 write articles, you know, focused on the outdoors</p> <p>22 and conservation.</p> <p>23 Q Did any of the firearms companies that you</p> <p>24 consulted with -- do any of them sell large-capacity</p> <p>25 magazines?</p> <p style="text-align: right;">Page 56</p>
<p>1 they called modern sporting rifles, which was the AR</p> <p>2 platform, they would have been opposed to.</p> <p>3 I don't know, again, if they -- how -- how</p> <p>4 in depth or what they did to oppose them, but I know</p> <p>5 that was discussed.</p> <p>6 Q Do you recall if they ever told you why</p> <p>7 NSSF opposed restrictions on large-capacity</p> <p>8 magazines?</p> <p>9 MR. LEE: Objection. Vague. Vague as to</p> <p>10 the term "they."</p> <p>11 You may answer.</p> <p>12 THE WITNESS: Okay. Yeah. I think there</p> <p>13 were discussions.</p> <p>14 From what I recall, I had discussions on,</p> <p>15 you know, getting rid of a product that our members</p> <p>16 sold was bad for our members and we are a</p> <p>17 member-based trade association; so we would do what</p> <p>18 is best for our members and that would be the --</p> <p>19 keep allowing them to sell -- make the products that</p> <p>20 they were selling.</p> <p>21 MR. MEYERHOFF: Can you read back that last</p> <p>22 answer for me, Ms. Miller?</p> <p>23 (The record was read.)</p> <p>24 BY MR. MEYERHOFF:</p> <p>25 Q To the best of your recollection, were you</p> <p style="text-align: right;">Page 55</p>	<p>1 A I do not believe so, no.</p> <p>2 Q Did any of the articles you've written</p> <p>3 while at Outdoor Insights, LLC, concern</p> <p>4 large-capacity magazines?</p> <p>5 A I don't believe so.</p> <p>6 Q You're also the executive director of</p> <p>7 Outdoor Stewards of Conservation Foundation; is that</p> <p>8 right?</p> <p>9 A Correct.</p> <p>10 Q And you -- is it fair to say that you</p> <p>11 formed that organization?</p> <p>12 A I did.</p> <p>13 Q And you formed it in 2021 as well?</p> <p>14 A Correct.</p> <p>15 Q What does that organization do?</p> <p>16 A We are a 501(c)(3) nonprofit organization,</p> <p>17 and our mission is to help recruit the next</p> <p>18 generation of what we call HATS, which are hunters,</p> <p>19 anglers, trappers, and shooters, and promote the</p> <p>20 fact that HATS are primary funders and stewards of</p> <p>21 land, fish, and wildlife conservation in America.</p> <p>22 Is that too long?</p> <p>23 Q No. That's -- thank you.</p> <p>24 Does Outdoor Stewards of Conservation</p> <p>25 Foundation have a position on legality of</p> <p style="text-align: right;">Page 57</p>

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<p>1 large-capacity-magazine restrictions?</p> <p>2 A We do not.</p> <p>3 We're conservation focused and we've got</p> <p>4 some programs that we're -- which is our primary</p> <p>5 focus.</p> <p>6 Q And I'm sorry. You told me this already,</p> <p>7 but what is the -- what is the mission of</p> <p>8 Outdoor Stewards of Conservation Foundation?</p> <p>9 A That's to use the research-based</p> <p>10 communication and engagement programs to help</p> <p>11 recruit the next generation of hunters, anglers,</p> <p>12 trappers, and shooters and promote the fact that</p> <p>13 they are the primary funders of land, fish, wildlife</p> <p>14 conservation in America.</p> <p>15 Q Do you think that restrictions on</p> <p>16 large-capacity magazines interfere with recruiting</p> <p>17 the next generation of hunters and anglers?</p> <p>18 A I have not thought too much about that,</p> <p>19 but, you know, the less options you have to do</p> <p>20 anything, I suppose would -- would hurt recruitment</p> <p>21 efforts.</p> <p>22 Q But it's not something you spent time</p> <p>23 thinking about; correct?</p> <p>24 A I have not.</p> <p>25 Q Prior to your time at NSSF, you had never</p> <p style="text-align: right;">Page 58</p>	<p>1 bag while filling your tag," and we provide</p> <p>2 biodegradable bags to people that hunt, fish, and</p> <p>3 shoot so when they are outdoors they can take trash</p> <p>4 out of the woods and waters, and we sell those bags</p> <p>5 to state wildlife agencies, outdoor organizations.</p> <p>6 Some of the folks that have bought those</p> <p>7 bags are firearm manufacturers.</p> <p>8 Q Do you own any shares or stocks in any</p> <p>9 firearms manufacturing companies?</p> <p>10 A I have a retirement account that has, you</p> <p>11 know, the different funds, and I have -- I don't</p> <p>12 know if any of them have shares in that.</p> <p>13 You know, my -- my son has an account to</p> <p>14 kind of -- I teach him to play with and in that</p> <p>15 account, he owns shares of Smith &amp; Wesson, yes. I</p> <p>16 think. I'm not sure of the symbol.</p> <p>17 Q But you personally don't own any shares of</p> <p>18 Smith &amp; Wesson or any other firearms manufacturer,</p> <p>19 independent of what may be in your retirement fund?</p> <p>20 A Correct.</p> <p>21 Q Do you personally own any large-capacity</p> <p>22 magazines?</p> <p>23 A So is that -- that's 11-plus? Is that --</p> <p>24 just to define it?</p> <p>25 Q A magazine capable of holding more than</p> <p style="text-align: right;">Page 60</p>
<p>1 conducted any research on firearm magazines;</p> <p>2 correct?</p> <p>3 A Correct.</p> <p>4 Q And -- and in your prior employment we</p> <p>5 mentioned prior to NSSF, you hadn't designed or</p> <p>6 conducted studies as part of those positions, had</p> <p>7 you?</p> <p>8 A I had not.</p> <p>9 Q And you mentioned briefly -- and if you</p> <p>10 could just refresh my recollection. In your</p> <p>11 positions prior to NSSF, what had been your</p> <p>12 professional involvement with firearms'</p> <p>13 manufacturers?</p> <p>14 A No direct contact with the manufacturers.</p> <p>15 Q Other than your salary from NSSF, in the</p> <p>16 past five years, have you received any payments or</p> <p>17 funds or income from the firearms industry?</p> <p>18 A A few of my clients with the consulting</p> <p>19 business, I had -- I had received some compensation</p> <p>20 for work I had done after NSSF.</p> <p>21 Q And anything beyond that?</p> <p>22 A Directly from the firearm manufacturers?</p> <p>23 Q That's correct.</p> <p>24 A With Outdoor Stewards of Conservation</p> <p>25 Foundation, one of our programs is called "Fill a</p> <p style="text-align: right;">Page 59</p>	<p>1 10 rounds.</p> <p>2 A Okay. I do.</p> <p>3 Q Approximately how many do you own?</p> <p>4 A I believe three.</p> <p>5 Q Do you own any standard-capacity magazines</p> <p>6 or magazines capable of holding 10 rounds or less?</p> <p>7 A I do.</p> <p>8 MR. LEE: Well, hang on a second.</p> <p>9 THE WITNESS: Oh, sorry.</p> <p>10 MR. LEE: Counsel, which is it?</p> <p>11 Standard-capacity magazine or magazines capable of</p> <p>12 holding 10 or fewer rounds?</p> <p>13 MR. MEYERHOFF: I mean, I'm calling it a</p> <p>14 standard-capacity magazine. I think the witness</p> <p>15 knows what I mean.</p> <p>16 MR. LEE: Standard -- you said do you own</p> <p>17 any standard-capacity magazines or magazines capable</p> <p>18 of holding 10 rounds or less.</p> <p>19 Did you not apply that 10 -- that</p> <p>20 standard-capacity magazines are magazines that hold</p> <p>21 10 or fewer rounds?</p> <p>22 So the question is vague and ambiguous.</p> <p>23 MR. MEYERHOFF: That's your objection?</p> <p>24 MR. LEE: Yes.</p> <p>25 ///</p> <p style="text-align: right;">Page 61</p>

<p>1 BY MR. MEYERHOFF:</p> <p>2 Q Mr. Curcuruto, do you own any magazines</p> <p>3 capable of holding no more than 10 rounds?</p> <p>4 A I do.</p> <p>5 Thanks for the clarification.</p> <p>6 Q You do know for purposes of this</p> <p>7 deposition, when I say "standard-capacity magazine,"</p> <p>8 I mean a magazine capable of holding 10 rounds or</p> <p>9 less?</p> <p>10 A And I do understand that.</p> <p>11 MR. LEE: I object to the question --</p> <p>12 THE WITNESS: Oh, sorry.</p> <p>13 MR. LEE: That -- that's not a term that I</p> <p>14 recognize, and the term that has been used in this</p> <p>15 litigation, standard-capacity magazine, by others</p> <p>16 including plaintiffs, including General Youngman,</p> <p>17 including just about anyone else that you would talk</p> <p>18 to in the country -- a standard-capacity magazine is</p> <p>19 a magazine that typically holds more than 10 rounds.</p> <p>20 So to the extent you're trying to mislead</p> <p>21 this witness by getting him to adopt the idea that a</p> <p>22 standard-capacity magazine as that term has been</p> <p>23 used in this litigation means a California legal</p> <p>24 magazine, I'm going to have to object to that.</p> <p>25 MR. MEYERHOFF: Ms. Miller, can you read</p> <p style="text-align: right;">Page 62</p>	<p>1 A There is.</p> <p>2 I believe back in early 2022, '23, I had to</p> <p>3 sign some sort of paperwork that said how many do</p> <p>4 you own?</p> <p>5 Q Is it your understanding that under</p> <p>6 Connecticut law, you cannot acquire more capacity</p> <p>7 magazines?</p> <p>8 A I believe that's correct.</p> <p>9 It's hard to keep up with the laws in</p> <p>10 Connecticut.</p> <p>11 MR. LEE: Object to the question as calls</p> <p>12 for a legal opinion, legal conclusion.</p> <p>13 BY MR. MEYERHOFF:</p> <p>14 Q If Connecticut's law were invalidated,</p> <p>15 would you go purchase more large-capacity magazines?</p> <p>16 MR. LEE: Objection. Lacks foundation.</p> <p>17 Calls for speculation.</p> <p>18 You may answer.</p> <p>19 THE WITNESS: So I would -- if I had the</p> <p>20 legal ability to buy a magazine that held more than</p> <p>21 11 -- 11-or-more rounds, I, most likely, would.</p> <p>22 BY MR. MEYERHOFF:</p> <p>23 Q Why would you buy another magazine capable</p> <p>24 of holding more than 10 rounds?</p> <p>25 A A lot of firearm manufacturers, when you</p> <p style="text-align: right;">Page 64</p>
<p>1 back the last question and answer.</p> <p>2 (The record was read.)</p> <p>3 BY MR. MEYERHOFF:</p> <p>4 Q How many magazines, approximately, do you</p> <p>5 own that are capable of holding no more than</p> <p>6 10 rounds?</p> <p>7 A Approximately 10.</p> <p>8 Q For the large-capacity magazines that you</p> <p>9 own, what is the maximum number of rounds that those</p> <p>10 are capable of holding?</p> <p>11 A 15.</p> <p>12 Q And are all 3 of those magazines capable of</p> <p>13 holding 15?</p> <p>14 A Yes.</p> <p>15 Q What state do you live in, Mr. Curcuruto?</p> <p>16 A Connecticut.</p> <p>17 Q Do you know if Connecticut has any</p> <p>18 restrictions on large-capacity magazines?</p> <p>19 A They do.</p> <p>20 Q Do you know what -- do you know what that</p> <p>21 restriction is?</p> <p>22 A I believe no more than 10.</p> <p>23 Q Do you know if there is some kind of</p> <p>24 grandfather provision that makes your possession of</p> <p>25 those magazines legal?</p> <p style="text-align: right;">Page 63</p>	<p>1 buy a gun, they come with that.</p> <p>2 In other states, I believe, they come with</p> <p>3 11-plus and if I were to go buy a new gun and it</p> <p>4 came with that magazine, I would be purchasing it, I</p> <p>5 guess.</p> <p>6 Q Any other reasons?</p> <p>7 A You know, I -- hopefully, when I have some</p> <p>8 free time, I'll do some target shooting. Right now,</p> <p>9 I'm just focusing on getting the business up and</p> <p>10 running, and it's just -- when you do do target</p> <p>11 shooting, it's easier to load one magazine, you</p> <p>12 know, with 15 rounds than 3 magazines with 10, you</p> <p>13 know -- 2 15-round magazines versus 3 10-round</p> <p>14 magazines. Just makes it easier, more enjoyable</p> <p>15 when you're at the target-shooting range.</p> <p>16 Q I take it you do a -- you like to target</p> <p>17 shoot; correct?</p> <p>18 A I do.</p> <p>19 Q Are there any other reasons, other than the</p> <p>20 fact that if you purchased another firearm, it may</p> <p>21 come with a large-capacity magazine and the fact</p> <p>22 that large-capacity magazines make target shooting</p> <p>23 easier, that you would want to purchase a</p> <p>24 large-capacity magazine?</p> <p>25 A Again, just to clarify the "large capacity"</p> <p style="text-align: right;">Page 65</p>



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<p>1 being an 11-plus, you know, I do have a conceal 2 carry license, and right now the maximum in 3 Connecticut is that under-10 capacity; so if I 4 were -- if the law allowed it and I was legally 5 allowed to do it and carry a firearm concealed, I 6 would carry one with 11 or more rounds, most likely. 7 Q There are 30-round magazines commercially 8 available for sale in other states. 9 Do you know if that's true? 10 A I believe so, yes, sir. 11 Q And would you want to purchase a 30-round 12 magazine? 13 A I don't -- I -- I haven't really thought 14 about it, but I would if they weren't illegal. 15 Q How many firearms do you own? 16 A Approximately 20. 17 Q Do you own any revolvers? 18 A I do. 19 Q And why do you own revolvers? 20 A I just -- I just like all different types 21 of guns. 22 Q But no specific reason that you -- that you 23 own revolvers? 24 A Just collecting, target shooting, personal 25 protection.</p> <p style="text-align: right;">Page 66</p>	<p>1 A I believe so, yes. 2 Q What is one of those firearms? 3 A Well, like, you know, a Ruger 10/22, which 4 is a rifle, has a little box magazine which most of 5 them are -- are 10 rounds but they have other 6 magazines that would hold more -- 11-plus. 7 I'm not sure up to 30, but certainly 15. 8 Q Do you know if any -- do you know if the 9 Ruger 10/22 you could purchase a magazine capable of 10 holding more than 15 rounds? 11 A I'm not familiar with that. 12 I would -- if I had to venture a guess, I 13 would say yes. 14 Q Do you own any firearms which are referred 15 to alternatively as assault weapons or modern 16 sporting rifles? 17 A I have one AR platform rifle that we used 18 to call, at NSSF, a modern sporting rifle. 19 Connecticut-compliant edition. 20 Q And when did you purchase that AR platform 21 rifle? 22 A I'm not sure of the exact date but several 23 years ago. 24 Q Did you purchase that rifle, to the best of 25 your knowledge, before Connecticut's restrictions on</p> <p style="text-align: right;">Page 68</p>
<p>1 Those are some of the reasons I own all 2 types of guns. 3 Q So it's fair so say that you own revolvers 4 for, among other reasons, personal protection; 5 correct? 6 A Correct. 7 Q And when you say "personal protection," is 8 it fair to say you mean that if someone were to 9 confront you and you had a revolver, you would 10 potentially use that for self-defense; correct? 11 A Correct. 12 Q Do you own any guns that are -- that are 13 fixed-magazine systems? 14 A So not attachable? Just to clarify. 15 Q Yeah. 16 Not -- that have a magazine that is not 17 detachable. 18 A I do not. 19 Q Do you have any firearms that are capable 20 of accepting magazines capable of holding more than 21 15 rounds? 22 A More than 15? 23 Q For example, are -- do you possess any 24 firearms that are capable of holding magazines which 25 can accept 30 rounds?</p> <p style="text-align: right;">Page 67</p>	<p>1 large-capacity magazines went into effect? 2 A I believe after because I -- I do -- I 3 couldn't -- I don't have any magazines that hold 4 more than 10 rounds for that firearm; so I would 5 assume at the time, if I could have bought more than 6 10 rounds, I would have or it would have come with 7 it. 8 Q You testified previously, I believe, that 9 the Ruger 10/22 firearm is capable of accepting a 10 magazine holding more than 10 rounds; correct? 11 A Correct. 12 Q Do you own any other -- do you own any 13 detachable magazine firearms for which you only have 14 a magazine capable of holding more -- no more than 15 10 rounds? 16 A Yes. 17 I own several firearms with magazines that 18 are 10 or less. 19 Q What do you use those firearms for? 20 A Mostly target shooting, collecting, 21 personal home defense. 22 I don't think any of them are -- they are 23 not hunting related. Those aren't my hunting 24 firearms. 25 Q So is it fair to say that you believe that</p> <p style="text-align: right;">Page 69</p>

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<p>1 those firearms are appropriate for home defense?</p> <p>2 MR. LEE: Objection. Misstates testimony.</p> <p>3 You may answer.</p> <p>4 THE WITNESS: They -- they can be used for</p> <p>5 home defense.</p> <p>6 BY MR. MEYERHOFF:</p> <p>7 Q I believe -- and correct me if I'm wrong --</p> <p>8 but I believe one of the reasons you possess one of</p> <p>9 the revolvers you have is for home defense; correct?</p> <p>10 A Correct.</p> <p>11 Q And did you also say for personal</p> <p>12 protection?</p> <p>13 A For the revolvers, home defense, personal</p> <p>14 protection, yes.</p> <p>15 Q For the revolvers you have, what is the</p> <p>16 maximum number of rounds you can fire before you</p> <p>17 need to reload?</p> <p>18 A The maximum in the revolvers I own, there</p> <p>19 are 6.</p> <p>20 Q Do you know what I mean firearms for</p> <p>21 which -- start again.</p> <p>22 Do you own any firearms that you can only</p> <p>23 shoot 5 or fewer rounds before you need to reload?</p> <p>24 A Well, I do have some -- for -- for when you</p> <p>25 water fowl hunt and you duck hunt in Connecticut and</p> <p style="text-align: right;">Page 70</p>	<p>1 MR. LEE: Objection. Calls for an opinion.</p> <p>2 You may answer.</p> <p>3 THE WITNESS: You know, it's always been</p> <p>4 that way since I've been hunting. I'm sure there's</p> <p>5 times if I had a fourth bullet, I would have been</p> <p>6 able to get more dinner, but, you know, it's -- it's</p> <p>7 just the way it is and I follow the regulations.</p> <p>8 BY MR. MEYERHOFF:</p> <p>9 Q It sounds like -- and obviously correct me</p> <p>10 if I'm wrong -- you've discharged a firearm before;</p> <p>11 correct?</p> <p>12 A Correct.</p> <p>13 Q Why have you discharged firearms in the</p> <p>14 past?</p> <p>15 A For target shooting and hunting.</p> <p>16 Q Have you ever discharged a firearm for any</p> <p>17 other reason?</p> <p>18 A Not that I can recall.</p> <p>19 Q Have you ever discharged a firearm at</p> <p>20 another person?</p> <p>21 A I have not.</p> <p>22 Q We discussed previously depositions you had</p> <p>23 given in other cases; correct?</p> <p>24 A Yes.</p> <p>25 Q Have you ever testified at trial in any</p> <p style="text-align: right;">Page 72</p>
<p>1 I think most places, the most you are allowed to</p> <p>2 have is 3 bullets in the gun; so you have to -- if</p> <p>3 the gun would -- is capable of holding more, you</p> <p>4 have to include what they call a plug; so, you know,</p> <p>5 you have to just take the gun apart to be able to</p> <p>6 put more than 3 bullets in it.</p> <p>7 So I have some water fowl guns right now</p> <p>8 with plugs in them; so the maximum amount of shells</p> <p>9 I can put in them are 3.</p> <p>10 Q Do you know, to the best of your knowledge,</p> <p>11 why Connecticut has that restriction?</p> <p>12 MR. LEE: Objection. Lacks foundation.</p> <p>13 Lacks foundation. Calls for speculation. And calls</p> <p>14 for a legal opinion.</p> <p>15 You may answer.</p> <p>16 THE WITNESS: It's just a federal</p> <p>17 regulation for duck hunting, the maximum is 3. For</p> <p>18 most types of duck hunting, there is a lot of</p> <p>19 different regulations. Snow geese, you can have a</p> <p>20 lot more than 3 and -- but they go down a rabbit</p> <p>21 hole.</p> <p>22 BY MR. MEYERHOFF:</p> <p>23 Q Do you think that restriction on the number</p> <p>24 of rounds you can fire without reloading while</p> <p>25 duck/fowl hunting interferes with hunting?</p> <p style="text-align: right;">Page 71</p>	<p>1 case?</p> <p>2 A I did -- I believe it was a California</p> <p>3 case, and it was during COVID; so it was virtual.</p> <p>4 I took the virtual stand.</p> <p>5 Q Have you ever testified at trial in any</p> <p>6 non-firearms cases?</p> <p>7 A I have not.</p> <p>8 Q Have you ever been deposed in any</p> <p>9 non-firearms cases?</p> <p>10 A The magazines, I -- I would assume, would</p> <p>11 fall under that, but nothing other than firearms and</p> <p>12 magazines.</p> <p>13 Q What is your definition of a sportsman?</p> <p>14 A A sportsman.</p> <p>15 Let's see. I don't really have a</p> <p>16 definition handy, but I assume someone that enjoys</p> <p>17 going outdoors hunting, fishing, trapping, shooting.</p> <p>18 Q Would you consider yourself a sportsman?</p> <p>19 A I would under that definition.</p> <p>20 Q Do you consider California's restriction on</p> <p>21 large-capacity magazines to be anti-sportsman?</p> <p>22 MR. LEE: Objection. Calls for an opinion.</p> <p>23 You may answer.</p> <p>24 THE WITNESS: You know, since I live in a</p> <p>25 state that has similar restrictions on the amount of</p> <p style="text-align: right;">Page 73</p>

<p>1 capacity in a firearm in a magazine, you know, I 2 would assume it's -- if I had to define if it's 3 pro-sportsman or anti-sportsman, I guess it would be 4 anti-sportsman just because you couldn't -- you 5 know, it just restricts what you can do as a 6 sportsman. 7 BY MR. MEYERHOFF: 8 Q And any restriction on what you can do as a 9 sportsman is anti-sportsman? 10 A I'm sure -- maybe it restricts, you know, 11 our ability to do the things that we should be able 12 to do or may want to do; so -- 13 Q Please. I interrupted you. 14 A No. Go ahead. I'm sorry. Just getting my 15 water. 16 MR. MEYERHOFF: I'm going to pull up 17 another doc- -- document I'll mark as Exhibit 4. 18 And let me figure out how to screen share. 19 (The document referred to was marked as 20 Deposition Exhibit 4 by the Reporter.) 21 BY MR. MEYERHOFF: 22 Q Can you see the document that I have on my 23 screen now? The icon in the upper left-hand corner 24 has the LinkedIn logo? 25 A Correct. Yeah.</p> <p style="text-align: right;">Page 74</p>	<p>1 A Yes. 2 Q And I believe we discussed this earlier, 3 but correct me if I'm wrong, it's fair to say that 4 you have -- in firearms cases that you've been a 5 part of, you've only submitted declarations or been 6 deposed on behalf of the plaintiffs; correct? 7 A Correct. 8 Q And reading this statement from your 9 LinkedIn page, is it fair to say that you would not 10 be available as an expert witness for defendants in 11 cases where firearms restrictions are being 12 challenged? 13 MR. LEE: Objection. Calls for 14 speculation. 15 THE WITNESS: No. 16 I don't -- I would -- I don't think that's 17 true. 18 I could be an expert witness, I think, on 19 either side, depending on the -- the content. 20 BY MR. MEYERHOFF: 21 Q But here you're advertising your services 22 as an expert witness specifically for the firearms 23 industry; correct? 24 A Correct. 25 Q And do you see here where it says in the</p> <p style="text-align: right;">Page 76</p>
<p>1 Q And the document is 17 pages. 2 So I'll just start with -- I'll just have 3 you look at page 1 and if you -- well, I'll ask 4 specific questions and obviously if at any time you 5 want to review the whole thing, just let me know. 6 Does that work? 7 A Sure. 8 Q So do you recognize the first page of this 9 document? 10 A I do. 11 Q What do you recognize it to be? 12 A It appears to be a screenshot of my 13 LinkedIn profile. 14 Q And do you maintain your LinkedIn profile? 15 A I do. 16 Q I'm going to scroll down. 17 Do you see where I've scrolled to? It says 18 "President Outdoor Insights, LLC." 19 A Correct. 20 Q And do you see maybe ten lines down, there 21 is a carat? It says "Available as Expert 22 Witness..."? 23 A Correct. 24 Q And it says "Available as Expert Witness 25 for the firearms industry"; correct?</p> <p style="text-align: right;">Page 75</p>	<p>1 middle of the page, "National Shooting Sports 2 Foundation"? 3 A I do. 4 Q And do you see the -- the third carat down 5 in there? It says: 6 "Serve as an expert witness in 7 depositions representing industry 8 against anti-sportsman legislation"? 9 A Yes. 10 Q So is it fair so say that you believe that 11 restrictions on magazines capable of holding more 12 than 10 rounds are anti-sportsman? 13 A Well, as we discussed before, it kind of 14 limits what you can do; so that would be 15 anti-sportsman. 16 Q Is it your opinion that a restriction on 17 magazines capable of holding more than 30 rounds 18 would be anti-sportsman? 19 MR. LEE: Objection. Calls for an opinion. 20 THE WITNESS: I have -- yeah. I don't have 21 any experience with magazines holding more than 30; 22 so I haven't really -- I don't really have a 23 personal opinion on using them or others using them. 24 BY MR. MEYERHOFF: 25 Q So you don't have a strong opinion that</p> <p style="text-align: right;">Page 77</p>



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<p>1 those should be unrestricted?</p> <p>2 A I do not have a strong opinion on that.</p> <p>3 Q Do you have a strong opinion on whether --</p> <p>4 I'll just rephrase.</p> <p>5 Do you have any opinion on whether</p> <p>6 magazines capable of holding more than 100 rounds</p> <p>7 should be restricted?</p> <p>8 A Again, I haven't really had any experience</p> <p>9 with that, no personal or professional experience</p> <p>10 firing or using that product or much knowledge of</p> <p>11 that at all; so I don't have much of an opinion on</p> <p>12 magazines holding more than 100 rounds.</p> <p>13 Q Do you have any opinion on them?</p> <p>14 A I -- I -- from the limited experience I</p> <p>15 have with them, I -- I don't really -- I don't</p> <p>16 really have an opinion at this time on those.</p> <p>17 Q In your opinion, would it be fair to</p> <p>18 describe magazines as a firearm accessory?</p> <p>19 A Yes.</p> <p>20 Q Are you familiar with what are called</p> <p>21 silencers?</p> <p>22 A Suppressor, silencer, I believe that just</p> <p>23 gets connected to the top of the barrel for noise</p> <p>24 abatement. If so -- if that's your definition of</p> <p>25 what you're talking about, yes, I do have knowledge</p> <p style="text-align: right;">Page 78</p>	<p>1 A I don't -- I'm not sure I understand that.</p> <p>2 I haven't heard that I'm qualified or</p> <p>3 unqualified, I believe, by any court.</p> <p>4 Q Have you personally ever been a party to a</p> <p>5 lawsuit?</p> <p>6 A I have not.</p> <p>7 Q Have any of the entities that you've</p> <p>8 controlled been a party to a lawsuit?</p> <p>9 A Can you just specify which entities?</p> <p>10 Q I believe previously we discussed --</p> <p>11 have -- so I believe that you exercise control over</p> <p>12 Outdoor Stewards of Conservation Foundation and</p> <p>13 Outdoor Insights; correct?</p> <p>14 A Correct.</p> <p>15 Q And I believe previously you testified that</p> <p>16 you were the owner of Marketing Memories, LLC;</p> <p>17 correct?</p> <p>18 A Yes, sir. Yes.</p> <p>19 Q Have you ever owned any other businesses?</p> <p>20 A No.</p> <p>21 Q Have you ever run any other nonprofits?</p> <p>22 A I have not.</p> <p>23 Q So have any of those three entities either</p> <p>24 been -- have any of those three entities ever been a</p> <p>25 party to a lawsuit?</p> <p style="text-align: right;">Page 80</p>
<p>1 of those.</p> <p>2 Q Do you own any silencers?</p> <p>3 A I do not.</p> <p>4 Q Why not?</p> <p>5 A It is just a complicated process to</p> <p>6 purchase and own them here in Connecticut, and I</p> <p>7 just haven't taken the time to go through that.</p> <p>8 Q Do you think restrictions on silencers</p> <p>9 would be anti-sportsman?</p> <p>10 A I think so.</p> <p>11 When you're hunting, you know, and use ear</p> <p>12 protection without a silencer, you know, is a smart</p> <p>13 move; but, you know, in other countries, it's kind</p> <p>14 of -- they want you to use silencers for -- for the</p> <p>15 noise, not disturb, you know, anybody close by</p> <p>16 and -- and to protect your hearing.</p> <p>17 So not allowing silencers is kind of</p> <p>18 anti-sportsman.</p> <p>19 Q You've been deposed in a number of cases;</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 MR. LEE: Asked and answered.</p> <p>23 BY MR. MEYERHOFF:</p> <p>24 Q Do you know if you've ever been found</p> <p>25 qualified as an expert by any court?</p> <p style="text-align: right;">Page 79</p>	<p>1 A They have not.</p> <p>2 Q One more question on Exhibit 4.</p> <p>3 Do you see where it says "Executive</p> <p>4 Director, Marketing Memories, LLC" in bold?</p> <p>5 A Yes, sir.</p> <p>6 Q And then the dates it lists October 2006 to</p> <p>7 November 2012; correct?</p> <p>8 A Correct.</p> <p>9 Q So is it fair to say that your employment</p> <p>10 with NSSF overlapped with your role as executive</p> <p>11 director at Marketing Memories, LLC?</p> <p>12 A It did.</p> <p>13 Q And so how did you manage both roles at the</p> <p>14 same time?</p> <p>15 A The Marketing Memories was the business I</p> <p>16 had started after Scholastic and prior to NSSF, it</p> <p>17 was my full-time job.</p> <p>18 When I started at NSSF, that was my</p> <p>19 full-time job and -- and Marketing Memories was just</p> <p>20 kind of residual. If an order came in, I would fill</p> <p>21 it, but not a lot -- unfortunately, not a lot of</p> <p>22 business came in during the time it overlapped with</p> <p>23 NSSF.</p> <p>24 Q Have you ever been charged with a crime?</p> <p>25 A I have not.</p> <p style="text-align: right;">Page 81</p>

<p>1 Q Have you ever been the victim of a crime?</p> <p>2 A Not that I know of.</p> <p>3 Q I'm going to return to what's been marked</p> <p>4 as Exhibit 3, which is your declaration.</p> <p>5 Do you see in paragraph 2, you write that</p> <p>6 the NSSF's:</p> <p>7 "... mission is to promote,</p> <p>8 protect and preserve hunting and the</p> <p>9 shooting sports"?</p> <p>10 A Correct.</p> <p>11 Q How does NSSF do that?</p> <p>12 A When I was with NSSF, and I'm not sure if</p> <p>13 their mission has changed -- but to promote,</p> <p>14 protect, preserve hunting and the shooting sports,</p> <p>15 they -- you know, I think one of the best things</p> <p>16 they did was provide research to learn how to</p> <p>17 increase participation in the activities of hunting</p> <p>18 and shooting sports.</p> <p>19 And as a trade association, if we could</p> <p>20 grow new customers that are members, which were</p> <p>21 business based, you know, it would increase their</p> <p>22 sales and -- and customer bases as well.</p> <p>23 Q So was the ultimate goal to increase sales?</p> <p>24 A Well, the goal for the NSSF for at least,</p> <p>25 you know, what I thought was there, was to provide</p> <p style="text-align: right;">Page 82</p>	<p>1 retailers and the ranges; but I don't have any</p> <p>2 specifics.</p> <p>3 I wasn't in the membership. It wasn't part</p> <p>4 of my responsibilities to determine the numbers of</p> <p>5 members or the individual types of memberships.</p> <p>6 Just knowledge of the overall numbers of members we</p> <p>7 had.</p> <p>8 Q Do you know how NSSF funded its operations?</p> <p>9 MR. LEE: Objection. Lacks foundation.</p> <p>10 Calls for speculation.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: To the best of my knowledge,</p> <p>13 NSSF funded their operations primarily by the</p> <p>14 ownership of the Shot Show that was a</p> <p>15 business-to-business consumer trade show. That</p> <p>16 brought in a lot of revenue for them.</p> <p>17 They also were able to bring in revenue via</p> <p>18 memberships. Since it was a, you know,</p> <p>19 business-to-business-based organization, they had</p> <p>20 members as outlined here.</p> <p>21 Manufacturers would pay a membership fee as</p> <p>22 well as retailers, ranges.</p> <p>23 Also, NSSF made a little bit of money</p> <p>24 selling some research products but it wasn't a huge</p> <p>25 chunk of their overall budgets.</p> <p style="text-align: right;">Page 84</p>
<p>1 them, you know, with better -- our members with</p> <p>2 better information so they could make better</p> <p>3 decisions and for them to increase, you know, their</p> <p>4 businesses, grow their businesses.</p> <p>5 Q And when you say "grow their businesses,"</p> <p>6 you mean increase revenue; correct?</p> <p>7 A It means -- you know, it could be increase,</p> <p>8 you know, the amount of employees that they have to,</p> <p>9 you know, pay some new people; bring some new people</p> <p>10 into hunting and shooting sports, new customers; and</p> <p>11 then also, you know, sell -- sell more products,</p> <p>12 sell to more customers.</p> <p>13 Q And in your declaration, you write at the</p> <p>14 time:</p> <p>15 "... NSSF has a membership of</p> <p>16 12,000 manufacturers, distributors,</p> <p>17 firearms retailers, shooting ranges,</p> <p>18 sportsmen's organizations and</p> <p>19 publishers."</p> <p>20 Do you know the approximate breakdown in</p> <p>21 terms of number of members within those different</p> <p>22 categories?</p> <p>23 A I do not.</p> <p>24 I think the -- the biggest portion of the</p> <p>25 membership at the time that I was there was the</p> <p style="text-align: right;">Page 83</p>	<p>1 BY MR. MEYERHOFF:</p> <p>2 Q How did NSSF make money with the Shot Show?</p> <p>3 A Again, I wasn't on the Shot Show team, but</p> <p>4 it's my understanding that exhibitors, and they had</p> <p>5 a couple thousand exhibitors, would pay to exhibit</p> <p>6 at the Shot Show and then attendees would pay to</p> <p>7 attend the Shot Show. That's how they made money</p> <p>8 during the trade show.</p> <p>9 THE REPORTER: May I take a little break?</p> <p>10 My doorbell rang and there is nobody else here and I</p> <p>11 need to check.</p> <p>12 THE WITNESS: I'll take a chance to go to</p> <p>13 the restroom.</p> <p>14 MR. MEYERHOFF: Why don't we take a</p> <p>15 five-minute break.</p> <p>16 (A brief recess was taken.)</p> <p>17 BY MR. MEYERHOFF:</p> <p>18 Q Mr. Curcuruto, are you ready to proceed?</p> <p>19 A Yes, sir. I am.</p> <p>20 Q I believe you testified previously that</p> <p>21 members of NSSF paid membership dues; is that</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q And do you -- to the best of your</p> <p>25 understanding, did all 12,000 members pay the exact</p> <p style="text-align: right;">Page 85</p>

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<p>1 same amount in dues?</p> <p>2 MR. LEE: Objection. Lacks foundation.</p> <p>3 THE WITNESS: No. I was not in membership,</p> <p>4 but I know there were different levels of</p> <p>5 membership; different pricing tiers. I don't know</p> <p>6 the specifics of them, though.</p> <p>7 Sorry.</p> <p>8 BY MR. MEYERHOFF:</p> <p>9 Q Would it be fair to say that, to the best</p> <p>10 of your knowledge, the larger firearms manufacturers</p> <p>11 paid more than the other members?</p> <p>12 A I believe that was the case.</p> <p>13 Q And to the best of your knowledge,</p> <p>14 manufacturers, distributors, and firearm retailers</p> <p>15 all have the primary goal of selling more firearms</p> <p>16 and firearms-related accessories; correct?</p> <p>17 A I -- you know, I did not work for a retail</p> <p>18 or range or manufacturers, so I'm not sure what</p> <p>19 their goals were, but I assume any business that</p> <p>20 wants to stay in business would like to sell -- sell</p> <p>21 to their customers and have more customers.</p> <p>22 Q And do you think it's fair to say that</p> <p>23 shooting ranges, sportsmen's organizations, and</p> <p>24 publishers all benefit from more firearm and</p> <p>25 firearm-accessory sales?</p> <p style="text-align: right;">Page 86</p>	<p>1 question. It's compound many times over.</p> <p>2 You may answer.</p> <p>3 THE WITNESS: Yeah.</p> <p>4 Just what we wanted to do, at least my</p> <p>5 division, we wanted to grow our own ranks which</p> <p>6 was -- or membership; right? We wanted to have more</p> <p>7 members as a trade organization which, I think, is</p> <p>8 standard for any trade organization.</p> <p>9 And of course we want our members to be</p> <p>10 successful; so, you know, I assume if they went out</p> <p>11 of business, they would no longer be members of the</p> <p>12 NSSF.</p> <p>13 BY MR. MEYERHOFF:</p> <p>14 Q Did you know -- during the time you were at</p> <p>15 NSSF, did you know who any members of the board of</p> <p>16 directors were?</p> <p>17 A I did.</p> <p>18 Q At the time you were at NSSF, was the chair</p> <p>19 of the board of directors Robert L. Scott?</p> <p>20 A I believe so.</p> <p>21 Q And did you know -- do you know if</p> <p>22 Mr. Scott is also the chairman of Smith &amp; Wesson?</p> <p>23 A At the time that I was with NSSF and</p> <p>24 Mr. Scott was on our board, I believe he worked in</p> <p>25 some capacity with Smith &amp; Wesson, but I do not know</p> <p style="text-align: right;">Page 88</p>
<p>1 A Well, I'm not sure.</p> <p>2 Again, on an individual level, sportsman</p> <p>3 organizations -- sometimes those are, you know,</p> <p>4 private clubs that don't want more. They like to</p> <p>5 have their own amount or even less sometimes.</p> <p>6 So I don't know if that statement is true</p> <p>7 for all -- everybody.</p> <p>8 Q Do you think it's fair to say that the main</p> <p>9 purpose of NSSF was to promote the sale of firearms</p> <p>10 and firearm accessories?</p> <p>11 A No.</p> <p>12 You know, in my opinion, when I was there,</p> <p>13 our main goal was just to, you know, grow overall --</p> <p>14 the overall market which includes participation and</p> <p>15 the amount of people purchasing anything from the</p> <p>16 firearm to, you know, targets and ear protection and</p> <p>17 all the accessories that go with it, all the hunting</p> <p>18 decoys and stuff.</p> <p>19 We just wanted to grow the overall market.</p> <p>20 Q So would it be fair to say that the goals</p> <p>21 of NSSF, in your opinion, were to increase the sale</p> <p>22 of firearms and firearm accessories, increase</p> <p>23 participation, and increase the purchasing of</p> <p>24 firearm accessories such as targets, et cetera?</p> <p>25 MR. LEE: Objection to the form of the</p> <p style="text-align: right;">Page 87</p>	<p>1 what capacity.</p> <p>2 Q Do you know if Smith &amp; Wesson manufactures</p> <p>3 large-capacity magazines?</p> <p>4 A If Smith &amp; Wesson manufactures</p> <p>5 large-capacity magazines?</p> <p>6 I'm not sure. I don't believe they do. I</p> <p>7 think they are a firearm manufacturer, but I'm</p> <p>8 unaware if they do or do not manufacture magazines</p> <p>9 that would go in firearms that they make.</p> <p>10 Q Smith &amp; Wesson -- would you just consider</p> <p>11 Smith &amp; Wesson to be a large firearms manufacturer?</p> <p>12 A Yes.</p> <p>13 Q Is it your testimony that you're not sure</p> <p>14 whether Smith &amp; Wesson manufactures magazines that</p> <p>15 go along with the firearms themselves?</p> <p>16 A Right.</p> <p>17 I'm not sure if they manufacture them or if</p> <p>18 they bought them from another manufacturer to</p> <p>19 include them, you know, with a firearms they sold.</p> <p>20 Q But it's your understanding that</p> <p>21 Smith &amp; Wesson typically sells firearms -- typically</p> <p>22 sells magazines along with the individual firearm</p> <p>23 they sell?</p> <p>24 A I believe when you purchase a firearm from</p> <p>25 Smith &amp; Wesson or, you know, any other manufacturer</p> <p style="text-align: right;">Page 89</p>

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<p>1 that makes a firearm that needs a detachable 2 magazine, that manufacturer is going to not just 3 sell the firearm but the firearm will come with 4 either one or two detachable magazines, whether it's 5 Smith &amp; Wesson or another manufacturer.</p> <p>6 Q At the time you were at NSSF, was the 7 co-vice chairman of the board Stephen Hornady?</p> <p>8 A So Stephen Hornady was on NSSF's board 9 while I was working at NSSF. I'm not sure what 10 capacity he was there.</p> <p>11 Q And are you aware if he is the president of 12 Hornady Manufacturing Co.?</p> <p>13 A When I was with NSSF, and, to my knowledge, 14 Steve Hornady was working with Hornady 15 Manufacturing. I don't know what his capacity was 16 there.</p> <p>17 I believe he was an owner. His name is on 18 it; so --</p> <p>19 Q Do you know what that company manufactures?</p> <p>20 A Primarily ammunition.</p> <p>21 Q At the time you were at NSSF, was the other 22 co-vice chairman of the board Jeff Reh, R-e-h?</p> <p>23 A Mr. Reh. Or Reh, R-e-h. He was on NSSF's 24 board. I'm not sure what his title was.</p> <p>25 I did not have a lot of direct contact</p> <p style="text-align: right;">Page 90</p>	<p>1 with firearms manufacturers?</p> <p>2 A You know, the one that just popped into my 3 head was a retail owner or worked at a retail shop, 4 but I don't want to use my memory to try to recall 5 who else was on the board.</p> <p>6 If you had a list there, I might be able to 7 remember them, but I know the board was primarily 8 made up of larger organizations from firearms and 9 ammunition and accessory and I think publishing 10 companies.</p> <p>11 Q Would it be fair to say, based on your 12 recollection of the board's composition today, that 13 the NSSF board was controlled by firearms 14 manufacturers?</p> <p>15 MR. LEE: Objection. Argumentative. Lacks 16 foundation. Calls for speculation.</p> <p>17 THE WITNESS: I believe they had a mix of 18 representatives from firearms, ammunition, retail.</p> <p>19 I think maybe -- shooting ranges and, at 20 one point, media. I'm not sure how their make-up is 21 today.</p> <p>22 BY MR. MEYERHOFF:</p> <p>23 Q Would it be fair to say that, at NSSF, your 24 role is to support the member organizations in 25 generating revenue?</p> <p style="text-align: right;">Page 92</p>
<p>1 with, you know, board meetings or anything like 2 that.</p> <p>3 Q And are you aware if Mr. Reh is affiliated 4 in any way with Beretta USA, Corp.?</p> <p>5 A I believe, you know, during the time I was 6 with NSSF, Mr. Reh was with Beretta.</p> <p>7 Q What does Beretta do?</p> <p>8 A They are a manufacturer of firearms.</p> <p>9 Q And at the time you were at NSSF, were you 10 aware that Josh Dorsey was on the board?</p> <p>11 A Yes.</p> <p>12 When I was with NSSF, I believe Mr. Dorsey 13 was on NSSF's board.</p> <p>14 Q And are you aware that Mr. Dorsey at the 15 time was affiliated with GLOCK?</p> <p>16 A Yes. When I was NSSF, Mr. Dorsey was on 17 our board and, to my knowledge, he was working for 18 the company GLOCK at the time.</p> <p>19 Q And what does GLOCK do?</p> <p>20 A They are a firearm manufacturer.</p> <p>21 Q Sitting here today, do you recall any other 22 members of the NSSF board of directors at the time 23 you worked there?</p> <p>24 A I do.</p> <p>25 Q Were any of those individuals affiliated</p> <p style="text-align: right;">Page 91</p>	<p>1 A My primary thought process was to, you 2 know, provide our members with as much quality 3 information as possible so they could make the best 4 business decisions.</p> <p>5 MR. MEYERHOFF: I'm going to go ahead and 6 share my screen.</p> <p>7 BY MR. MEYERHOFF:</p> <p>8 Q Can you see what's on my screen now, 9 Mr. Curcuruto? It appears to be a YouTube page and 10 below the video it says "NSSF research - 11 Jim Curcuruto 2016 Shot Show TV Studio"?</p> <p>12 A I do see it, yeah.</p> <p>13 Q And did a Shot Show convention take place 14 in 2016?</p> <p>15 A Yeah.</p> <p>16 The Shot Show is -- the trade show is every 17 year, usually January, once a year.</p> <p>18 Q And what would the Shot Show TV studio be?</p> <p>19 A That was run by the NSSF media department 20 and they would do kind of on-site interviews of 21 people attending the show.</p> <p>22 Q And do you recall ever participating in the 23 TV studio?</p> <p>24 A I did, yes.</p> <p>25 I did several interviews over the years.</p> <p style="text-align: right;">Page 93</p>



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1 Q I'm going to play this video and then ask 2 you a few questions about it or I'm going to play a 3 segment of the video. 4 "MS. KOPCZYK: Welcome back to Shot Show 5 TV. I'm your host, Rachel Kopczyk, 6 coming to you live from the Shot Show TV 7 studio, and I'm joined now by Jim 8 Curcuruto. He is the director of 9 industry research for NSSF. 10 MR. CURCURUTO: Thank you for having me. 11 MS. KOPCZYK: It's great to have you 12 here and speak about this. So your 13 research and analysis and sometimes our 14 eyes kind of glaze but you guys are 15 actually doing really important work. 16 MR. CURCURUTO: Thank you. 17 MS. KOPCZYK: And it's actually very 18 important for business success. 19 MR. CURCURUTO: Right. 20 MS. KOPCZYK: So what's your most 21 popular research elements that you have? 22 Publications? 23 MR. CURCURUTO: We have a ton of 24 research every year. And now some of 25 the big more popular ones are our	1 A I believe, yes. 2 That suit I would not fit in anymore. 3 Q And do you recall giving this interview? 4 A I do. 5 Q And this was at the 2016 Shot Show; 6 correct? 7 A Correct. 8 Q And you were representing NSSF at that 9 Shot Show; correct? 10 A Yes. 11 Q When you say in the video -- a moment ago 12 you said "we finished the year strong." 13 What did you mean by that? 14 A It was -- you know, one of the indicators 15 that we rely on is firearm sales and participation; 16 so those two -- I believe 2016 was a good year for 17 both increasing participation and hunting in the 18 shooting sports and overall sales increases. 19 Q How would you have measured increased 20 participation? 21 A Each year, we conducted several studies on 22 participation. 23 We also reviewed data from sources like -- 24 I'm speaking slow now. I heard myself speaking 25 slow. U.S. Fish and Wildlife Service had certified
1 industry reference guide. We actually 2 call it our Bible. It's 200 pages worth 3 of source material that will give you a 4 real good idea of what's happening in 5 the industry from the background check 6 data that the FBI puts out on a monthly 7 basis, to firearm production every year, 8 how many hunting licenses are sold 9 and -- and, of course, the all-important 10 economic data on the -- you know, the 11 size of the industry. 12 MS. KOPCZYK: All right. Give us a -- 13 give us some stats. Give us some info. 14 MR. CURCURUTO: Sure. Well, we've had a 15 good run here the last couple years as 16 the 60,000 goers here will tell you and 17 we finished the year strong. The FBI 18 background checks; had a good November 19 and December and that is up 8.8% over 20 the year. We were expecting about a 5% 21 increase, but that -- that strong finish 22 really helped push us over the edge." 23 BY MR. MEYERHOFF: 24 Q That was you in the video that we just 25 played; correct?	1 hunting license sales. 2 We had done a couple of studies on target 3 shooting participation. 4 We purchased data from other sources like 5 the National Sporting Goods Association. 6 They had an annual report on a bunch of 7 different activities, including hunting and 8 target-shooting participation; so we tried to 9 monitor, the best we could, how participation rates 10 were and used other sources to monitor, the best we 11 could, sales data as well. 12 Q And then later in the video, you said we 13 "had a good November and December." 14 What did you mean by that? 15 A Probably focusing on, from my 16 recollection -- and what I know -- the best -- one 17 of the best indicators we had or more current was 18 every month the FBI would release their unadjusted 19 background check data on firearm sales; so we would 20 look at that, and each month, we would keep a tally 21 and measure it versus, you know, year-over-year and 22 keep historical records of that. 23 And 2016 had a strong, I guess, holiday 24 season -- October, November, December end-of-year 25 season for the background check data.

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<p>1 Q And when you say there was "a strong finish 2 really helped push us over the edge," is that 3 firearm sales as well? 4 A Oh, I don't really know what I was 5 referring to, "push us over the edge." 6 Most likely, what I was referring to was 7 the firearms sales because that, you know -- 8 January, 2020 -- or 2016, we would have had just 9 received the December data; so we would have had the 10 full year and be able to say that 2016 was stronger 11 than 2015 in -- in looking at the background check 12 data. 13 Q When you were saying "we," did you mean 14 NSSF? 15 A I'm sure I -- "we" -- I -- I might have 16 spoken for NSSF as saying "we," yeah. Or -- or the 17 industry. 18 I think I had referenced the 60,000 people 19 there; so maybe I was all-encompassing. 20 Q I'm going to return to your declaration 21 now. 22 In paragraph 3 of your declaration, you 23 write that you directed: 24 "... the activities of an 25 internal research coordinator...."</p> <p style="text-align: right;">Page 98</p>	<p>1 Q And in your discussions with her, did you 2 discuss large-capacity magazines? 3 A We did not. 4 Q In paragraph 3, you also state that you 5 directed: 6 "... outside companies retained 7 to conduct research and gather market 8 and consumer information useful to 9 NSSF members." 10 Which outside companies did you retain to 11 do that? 12 A Well, we worked with several companies. 13 Southwick Associates, Responsive Management, 14 Sports Marketing Surveys, InfoManiacs were some of 15 the top organizations that we would contract to help 16 us conduct market research. 17 MR. MEYERHOFF: Miss Miller, can you just 18 read back his answer for me. 19 (The record was read.) 20 MR. MEYERHOFF: Thank you. 21 BY MR. MEYERHOFF: 22 Q Did Southwick Associates ever assist you 23 with research on firearm magazines? 24 A They did. I believe so, yes. 25 Not on this chart that's in -- that's in</p> <p style="text-align: right;">Page 100</p>
<p>1 Do you see that? 2 A Yes. 3 Q Who was that internal research coordinator? 4 A That was Dianne Vrablic who we referenced 5 earlier. 6 Q And did Miss Vrablic ever assist you with 7 research on firearm magazines? 8 A Most likely, I handled the bulk of that and 9 then, you know, the -- the analysis or the data 10 collection on firearm magazines, and she would help 11 create the charts and promote that type of stuff, 12 but I think I did most of the data-crunching on 13 that. 14 Q Do you know if Miss Vrablic created the 15 Magazine Chart that was attached as an exhibit to 16 your declaration in this Wiese case? 17 A She may have created it in, you know, Excel 18 or PowerPoint but the data to create it was under my 19 responsibilities. 20 Q And to the best of your knowledge, is 21 Miss Vrablic still with NSSF? 22 A I believe she is. 23 It's been a while since we've spoken, but 24 the last time we spoke, within the last six months, 25 she was still there.</p> <p style="text-align: right;">Page 99</p>	<p>1 the exhibit on this, but -- 2 Q How did they assist you? 3 A I believe we contracted them to do a quick 4 survey or a study on consumers' ownership of -- of 5 magazines. 6 They also ran an internal survey of 7 consumers, and they tracked a lot of different 8 purchases from people that purchased firearms, 9 ammunition, magazines. 10 I believe magazines may have been one of 11 the things they tracked, but I'm not sure at the 12 time if -- if that was one that we had, you know, 13 purchased from them or not. 14 Q Did you ever contract with Responsive -- 15 did -- did Responsive Management ever assist you 16 with research on firearm magazines? 17 A Responsive Management we hired several 18 times to do participation studies and -- and several 19 other studies -- we would contract them a few times 20 a year. 21 I don't recall anything specific to 22 magazine ownership, but there may have been a 23 question in -- in some of the surveys that we had 24 contracted them out that had to do with magazine 25 ownership or purchasing or usage.</p> <p style="text-align: right;">Page 101</p>

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<p>1 Q What about Sports Marketing Surveys?</p> <p>2 A Sports Marketing Surveys -- I believe we</p> <p>3 contracted to do a study on the modern sporting</p> <p>4 rifle consumer, and in that study, there was</p> <p>5 questions on purchases of firearms and accessories</p> <p>6 and, I believe, some of the accessories were</p> <p>7 magazines; so I believe they were involved in that.</p> <p>8 Q And what about InfoManiacs?</p> <p>9 A We used them quite often on specific</p> <p>10 projects -- first-time gun buyers, women gun owners.</p> <p>11 But I don't think we ever got too deep</p> <p>12 involved in specifics on any of their projects, but</p> <p>13 we had done so many things over 10, 11 years, I</p> <p>14 don't want to say we did not, but I don't believe we</p> <p>15 used InfoManiacs to do anything specific to magazine</p> <p>16 ownership.</p> <p>17 Q Can you describe what kind of -- can you</p> <p>18 describe what Southwick Associates does as a</p> <p>19 company?</p> <p>20 A They are a market research organization; so</p> <p>21 they -- their services -- they would get contracted</p> <p>22 out by folks or companies, like NSSF, to do specific</p> <p>23 market research products, for the most part, and</p> <p>24 they had internal data as well that you could</p> <p>25 purchase from them.</p> <p style="text-align: right;">Page 102</p>	<p>1 Q Have you ever seen this press release</p> <p>2 before, Mr. Curcuruto?</p> <p>3 A I recall giving them the award and I know</p> <p>4 that we had some media ad on it.</p> <p>5 This looks like it came directly from</p> <p>6 Southwick.</p> <p>7 I normally just tracked NSSF releases on</p> <p>8 it; so I'm aware of the award, but I may not have</p> <p>9 seen this particular release 12 years ago.</p> <p>10 Q And you're quoted as saying:</p> <p>11 "The awards are well deserved.</p> <p>12 NSSF's research would not be where it</p> <p>13 is today without them."</p> <p>14 Do you recall saying that?</p> <p>15 A Yes.</p> <p>16 Q And is that statement true?</p> <p>17 A It is.</p> <p>18 Q Why did you not hire Southwick Associates</p> <p>19 to create the Magazine Chart attached to your</p> <p>20 declaration as Exhibit 1?</p> <p>21 A That was something that, you know, I could</p> <p>22 do internally; so there were certain things that we,</p> <p>23 you know -- with two people on staff, we could only</p> <p>24 do a certain amount internally; so we would hire</p> <p>25 those organizations to do -- help us with other</p> <p style="text-align: right;">Page 104</p>
<p>1 Q Would it be fair to say that you have a</p> <p>2 high opinion of Southwick Associates?</p> <p>3 A Yeah.</p> <p>4 We -- we wouldn't work with companies that</p> <p>5 we didn't have a good opinion on; so all -- all four</p> <p>6 of those companies I mentioned, I had a high opinion</p> <p>7 on.</p> <p>8 Certainly would not have hired them if I</p> <p>9 didn't.</p> <p>10 MR. MEYERHOFF: I'm going to pull up what I</p> <p>11 want to mark as Exhibit 5.</p> <p>12 (The document referred to was marked as</p> <p>13 Deposition Exhibit 5 by the Reporter.)</p> <p>14 BY MR. MEYERHOFF:</p> <p>15 Q It's just a two-page document. I'll give</p> <p>16 you a moment to review it. You can tell me when to</p> <p>17 scroll down.</p> <p>18 A 2011?</p> <p>19 You can scroll down. Hmm.</p> <p>20 Scroll up a little bit, please.</p> <p>21 Q Up or down? I'm sorry.</p> <p>22 A Oh, down. Yeah. Okay. That's good.</p> <p>23 All right. Let's see what Rob said here.</p> <p>24 Helping --</p> <p>25 Report. Yeah. They did a lot.</p> <p style="text-align: right;">Page 103</p>	<p>1 things.</p> <p>2 When we could do things in-house, we did</p> <p>3 them in-house and the Magazine Chart is one we did</p> <p>4 in-house.</p> <p>5 Q To be clear, you testified earlier that</p> <p>6 Southwick tracked the purchases of accessories</p> <p>7 including magazines; correct?</p> <p>8 A Again, I believe I said -- I was pretty</p> <p>9 sure they tracked magazines, but I wasn't sure, but</p> <p>10 they tracked a lot of consumer purchases in the</p> <p>11 firearms industry. Not -- not sure if magazines was</p> <p>12 part of them, but I think they were.</p> <p>13 Q Did -- at the time you were there, did NSSF</p> <p>14 track magazine purchases?</p> <p>15 A Not internally. We would use outside</p> <p>16 sources for, like -- if Southwick had that data, we</p> <p>17 would use them or contract them to see if we could</p> <p>18 learn a little bit more about a particular product.</p> <p>19 Q I'm going to go back to your declaration.</p> <p>20 In paragraph 4 you state that the purpose</p> <p>21 of the research you conducted at NSSF was for NSSF</p> <p>22 members "use in their business decisions"; correct?</p> <p>23 A For use in their business decisions, yes.</p> <p>24 Q How would the members use the data you</p> <p>25 provided to them in their business decisions?</p> <p style="text-align: right;">Page 105</p>



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<p>1 MR. LEE: Objection. Lacks foundation.</p> <p>2 THE WITNESS: Well, so overall, you know,</p> <p>3 when I first started in 2009, there wasn't a lot of</p> <p>4 data for -- for the outdoor industry for hunting and</p> <p>5 target shooting; so we tried to, you know, figure</p> <p>6 out what holes needed to be filled and, you know,</p> <p>7 participation data was a big one; so if we could</p> <p>8 have trend data that showed our members, "Well,</p> <p>9 hunting is increasing" or "target shooting is</p> <p>10 increasing" or "hunting is decreasing," those are</p> <p>11 the types of things we felt would help them make</p> <p>12 better business decisions.</p> <p>13 You know, if sales of firearms were going</p> <p>14 up or sales of firearms were going down, we wanted</p> <p>15 to try to provide that information as quickly and</p> <p>16 accurately as we could to our members, thinking that</p> <p>17 they would be able to use that data to make better</p> <p>18 decisions, you know, contracted out some of those</p> <p>19 companies we talked about.</p> <p>20 We would get the consumer opinions and, you</p> <p>21 know, the more you know about your consumer, we felt</p> <p>22 our customers could then -- or NSSF members could</p> <p>23 make better decisions when they understood their</p> <p>24 customers a little bit more.</p> <p>25 ///</p> <p style="text-align: right;">Page 106</p>	<p>1 know as much as possible if I was, you know --</p> <p>2 whether somebody that was writing articles on, you</p> <p>3 know, the outdoor industry or somebody owned a</p> <p>4 shooting range or somebody that owned a retail shop,</p> <p>5 to better understand, you know, what kind of</p> <p>6 products I should carry.</p> <p>7 And if they can see in the trends are one</p> <p>8 way for a certain product, whether that's magazines,</p> <p>9 and maybe they would know better what to carry in</p> <p>10 their stores.</p> <p>11 If they see that, you know, magazines under</p> <p>12 10 rounds were more popular than magazines over</p> <p>13 10 rounds, you know, they would -- they would make</p> <p>14 decisions like that.</p> <p>15 I never made those decisions because I</p> <p>16 wasn't working at those companies, but I tried to</p> <p>17 think like them and provide them with as much</p> <p>18 information as I could.</p> <p>19 BY MR. MEYERHOFF:</p> <p>20 Q The Magazine Chart was submitted as an</p> <p>21 exhibit to your declaration. Is that -- would it be</p> <p>22 fair to say that?</p> <p>23 A Correct.</p> <p>24 Q And would it be fair to say that your</p> <p>25 declaration was submitted in this case as part of an</p> <p style="text-align: right;">Page 108</p>
<p>1 BY MR. MEYERHOFF:</p> <p>2 Q Do you know if NSSF members used the</p> <p>3 Magazine Chart in their decisions?</p> <p>4 A I do not know specifically or don't recall.</p> <p>5 I do remember thinking that people should</p> <p>6 use our data. Our members should use our data more</p> <p>7 than they did because I would get questions from</p> <p>8 some members, "Hey. Do we have any information on</p> <p>9 this?" and something that we had done previously,</p> <p>10 like, "Yes. We have it. We haven't used it</p> <p>11 before," but that -- just personally, I thought</p> <p>12 that, you know, we should have our research being</p> <p>13 used more than it was.</p> <p>14 But going back to your original question</p> <p>15 there, I'm not -- I would hope that the research we</p> <p>16 provided them on magazines was used by some of our</p> <p>17 members, but I don't recall specifically any of them</p> <p>18 stating that their -- their use of it.</p> <p>19 Q How would an NSSF member use the</p> <p>20 Magazine Chart in their business decisions?</p> <p>21 MR. LEE: Objection. Lacks foundation.</p> <p>22 Calls for speculation.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: The way I tried to look at it</p> <p>25 is what would I like to know? And I would want to</p> <p style="text-align: right;">Page 107</p>	<p>1 effort to invalidate California's restrictions on</p> <p>2 magazines capable of holding more than 10 rounds?</p> <p>3 Would it be fair to say that?</p> <p>4 A I think, you know, the primary reason that</p> <p>5 I conducted research for NSSF was, you know, for our</p> <p>6 members and then when lawsuits started to happen and</p> <p>7 people realized do we have any information on</p> <p>8 magazines or -- or modern sporting rifles, then</p> <p>9 that's when they, you know, became used for -- as</p> <p>10 exhibits for these cases to, you know, show the</p> <p>11 other side or -- or try to prove whatever NSSF's</p> <p>12 were -- or the plaintiffs were trying to prove.</p> <p>13 Q Is it your testimony, sitting here today,</p> <p>14 that the Magazine Chart was created prior to any</p> <p>15 litigation regarding large-capacity magazines?</p> <p>16 A I'm not sure. When you say "any</p> <p>17 litigation," I really don't know when it started but</p> <p>18 I know the purpose of all the research that NSSF or</p> <p>19 at least under -- when I was there, the primary</p> <p>20 reason was not for legislation issues or lawsuits</p> <p>21 but to provide our members with information so they</p> <p>22 could just make their best business decision.</p> <p>23 Q I want to focus specifically on the</p> <p>24 Magazine Chart.</p> <p>25 A Okay.</p> <p style="text-align: right;">Page 109</p>

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<p>1 Q So sitting here today, what is your best 2 recollection of why the one-page Magazine Chart 3 attached to your declaration was created? 4 A Probably -- again, going off my memory of 5 what I think at the time, we had done a couple of 6 studies on the modern sporting rifle consumer and I 7 want to say maybe we had done them in 2013, but 8 maybe the first one, and in that -- whenever you do 9 one bit of research, there is always, you know, 10 questions about "Hey. Did you learn anything about 11 X, Y, or Z?" and then my assumption was somebody -- 12 one of our members said "Hey. Do you have any more 13 information on magazines that," you know, "go into 14 the firearms?" 15 So that's -- that would have been why we 16 created it in the first place. 17 Q Do you recall any specific member asking 18 you to create this chart? 19 A I do not. 20 We had created so many things for so many 21 reasons that, unfortunately, I don't know the exact 22 reason why we created all this stuff again. 23 Q Do you have -- to the best of your 24 knowledge, has this chart been disseminated to 25 members of NSSF?</p> <p style="text-align: right;">Page 110</p>	<p>1 we would pay them to do those reports. 2 So sometimes we would charge our members 3 for certain reports. 4 And then, again, I mentioned there were 5 different levels of membership; so some -- the 6 highest levels of membership got a lot of free 7 research, and different levels had to pay different 8 amounts for some of the research we provided. 9 Q Do you know when -- do you know when the 10 Magazine Chart was first included in NSSF's year-end 11 report? 12 A I would -- if it was included, it probably 13 would have been around 2016 or 2017. 14 We tried to update that report as much as 15 possible on an annual basis, but there were years we 16 skipped it just because, you know, two people, 17 200-page report, there was a lot in there and we 18 couldn't -- just couldn't manage everything to 19 update every single page. 20 A lot of times we would just update what we 21 had available to us. 22 So earliest it would have been in there 23 would have been 2017, if it was in there. 24 Q But sitting here today, you can't be 25 positive of whether or not it was in there?</p> <p style="text-align: right;">Page 112</p>
<p>1 A Yeah. 2 I believe -- you know, when you played that 3 video and I referenced our industry reference guide 4 which was 200 pages, that was kind of our catch-all. 5 We would put as much stuff as we could into 6 that one document -- you know, the background check 7 data, the participation data, economic impact of 8 hunting and target shooting, and then we would have 9 put things like this Magazine Chart in there. 10 You mentioned silencers earlier. We 11 tracked 4 and 4 -- I think they were 4 and 4's -- 12 for, you know, the amount of suppressors. 13 We had a lot of things that we tracked so 14 that we, again, just tried to provide as much 15 information to our members as possible. 16 Q So is it fair to say you may -- NSSF may 17 have included this chart in some kind of year-end 18 report to -- to members? 19 A Correct. 20 I would assume -- it wasn't given to them. 21 It was a product that was sold and it was kind of 22 behind a firewall. 23 We would put out dozens of pieces of 24 information a year from full reports from those 25 outside agencies, like the Southwick Associates, and</p> <p style="text-align: right;">Page 111</p>	<p>1 A I cannot. 2 Q And NSSF distributed this year-end report 3 prior to 2016; correct? 4 A Yeah. 5 We -- I guess we called it the industry 6 reference guide and we tried to update it every -- 7 at the end of every year; so I guess you could call 8 it a year-end report. 9 But, yeah, it was on an annual basis as 10 best as we could. 11 Q And do you have any understanding of why, 12 prior to 2016, this Magazine Chart, or a version of 13 it, was not included in that industry reference 14 guide year-end report? 15 A Just from my recollection, you know, doing 16 that modern sporting rifle consumer study, if that 17 was in '13 and people had questions and -- we might 18 have just done it for the first time in '15. 19 I'm not sure. I don't recall, you know, 20 the first time I ever created that chart, but it was 21 probably in the vicinity of 2015. 22 Q To be clear, are you aware of any other use 23 of this Magazine Chart outside of litigation 24 involving large-capacity magazines? 25 A Well, I'm not aware, but I would hope its</p> <p style="text-align: right;">Page 113</p>

<p>1 intended purpose of helping some of our 10- or 2 12,000 members at the time -- hopefully some of them 3 used it.</p> <p>4 Q Going to paragraph 4, the last sentence 5 says:</p> <p>6 "Research conducted by the NSSF 7 and under my direction demonstrates 8 that detachable ammunition magazines 9 are very popular and are commonly 10 owned by millions of persons in the 11 United States for a variety of lawful 12 purposes, including, but not limited 13 to, recreational and competitive 14 target shooting, home defense, 15 collecting and hunting." 16 Do you see that?</p> <p>17 A Yes.</p> <p>18 Q Do you have a breakdown of the number of 19 persons in the United States who -- who commonly own 20 large -- who commonly own detachable ammunition 21 magazines for each of those purposes?</p> <p>22 A I do not.</p> <p>23 MR. MEYERHOFF: I'm going to pull up what 24 I'll mark as Exhibit 6. 25 ///</p> <p style="text-align: right;">Page 114</p>	<p>1 Q Line 8, where it says: 2 "Q Have you conducted any 3 study...." 4 A Okay. 5 Q Through the end of the page, please. 6 A All right. Wait one second here. I'm 7 losing track of it. 8 Okay. 9 Q So is it fair to say in paragraph 4, when 10 you talk about common ownership for "lawful 11 purposes," that's an extrapolation from the total 12 number of magazines in your Magazine Chart? 13 Correct?</p> <p>14 A You know, obviously, you're not using a 15 magazine by itself. You're using it within the 16 firearm, and I know we had some discussion on, you 17 know -- there's -- we had done a study on consumers 18 on modern sporting rifles which told us, I think, 19 within that study that they used magazines with the 20 firearm; so I don't want to say that it was only 21 from that Magazine Chart that we were saying they 22 were popular, the magazines that can hold 11 more 23 rounds, but there was, you know -- pretty clear-cut 24 that there are millions of them owned out there and 25 being used for a lot of legal, lawful purposes or</p> <p style="text-align: right;">Page 116</p>
<p>1 (The document referred to was marked as 2 Deposition Exhibit 6 by the Reporter.) 3 MR. MEYERHOFF: And I'm going to screen 4 share it. 5 BY MR. MEYERHOFF: 6 Q Do you see the document that we marked as 7 Exhibit 6? At the very top it says 8 "James Curcuruto, January 11, 2018." 9 Do you see that?</p> <p>10 A I do.</p> <p>11 Q Do you recall giving a deposition in 12 White Plains, New York, on January 11, 2018?</p> <p>13 A I'm sure I did, but I don't recall for some 14 reason. White Plains which isn't too far from where 15 I was. I'm trying to think of where that was.</p> <p>16 I'm sure I did. I just don't recall being 17 in White Plains in January of 2018.</p> <p>18 Q I'm going to scroll down to what in the 19 document itself is page 117. 20 And I'll start at line -- could you read 21 from line 8 to line 25 of that page.</p> <p>22 A Is there any way you could make it a little 23 bigger? Get rid of that stuff on the left. My 24 eyes -- ah. Much better. 25 Where am I starting?</p> <p style="text-align: right;">Page 115</p>	<p>1 several legal, lawful purposes. 2 MR. LEE: Counsel, may I ask you to 3 represent whether that Exhibit 006 -- I'm sorry -- 4 may I ask you to represent whether defense Exhibit 6 5 constitutes the entire transcript of the deposition?</p> <p>6 MR. MEYERHOFF: Yeah. Looks like it.</p> <p>7 MR. LEE: In other words, it wasn't 8 excerpted?</p> <p>9 MR. MEYERHOFF: Yeah. It's the whole 10 thing.</p> <p>11 BY MR. MEYERHOFF: 12 Q So, I mean, is it fair to say that your 13 conclusion that millions of Americans use detachable 14 ammunition magazines for a variety of lawful 15 purposes is based on the fact that -- never mind. 16 I'll -- I'll strike that.</p> <p>17 In paragraph 6, you state that you are: 18 "... not aware of any singular 19 public source providing reliable 20 figures identifying exactly how many 21 ammunition magazines are manufactured 22 or imported for sale within the 23 United States each year." 24 Is that -- is that true? 25 A Yeah.</p> <p style="text-align: right;">Page 117</p>

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<p>1 MR. LEE: Sorry. Are you asking the 2 witness whether that was true then or true now? 3 BY MR. MEYERHOFF: 4 Q Was that true at the time that you made the 5 statement? 6 A Yes. 7 Q And since that time, have you become aware 8 of any singular public source providing such 9 reliable figures? 10 A I have not. 11 Q Are there any singular public sources 12 providing unreliable figures? 13 A No. Not that I'm aware of. 14 Q Are there any private public sources that 15 would provide those reliable figures? 16 A Not that I'm aware of then or now. 17 That's why I created the Magazine Chart and 18 did some of the studies on usage, just to get that 19 information since we didn't have a reliable source 20 for it. 21 Q I believe you testified earlier that 22 Southwick Associates tracked the sale of accessories 23 and including, to the best of your knowledge, 24 magazines. 25 A I believe they -- I believe they did.</p> <p style="text-align: right;">Page 118</p>	<p>1 Southwick Associates to gather this information 2 because of cost? 3 A No. 4 I -- I like to do things like this when I 5 have -- I'm familiar with the data sources 6 available, and I have the means and the time to do 7 it. 8 I just kind of like to dig in and figure 9 out things like this; so just at the time I must 10 have had the time and the -- the sources -- enough 11 sources where I felt I could create something 12 reliable. 13 Q And I don't want to misstate your 14 testimony, but to -- correct me if I'm wrong -- but 15 I believe what you testified previously was that you 16 synthesized the information contained in the 17 Magazine Chart and then Mrs. Vrablic 18 [pronunciation] -- 19 A Vrablic. 20 Q -- Vrablic created the actual document 21 itself; is that right? 22 A I'm not sure. I think I stated I wasn't 23 sure if she created the document or I did or we both 24 did. 25 I mean at the time, you know, I was the</p> <p style="text-align: right;">Page 120</p>
<p>1 Perhaps not at the time when we were collecting all 2 of this. You know, Southwick Associates had the 3 ability to add, you know, products that they were 4 tracking at the request of their clients. It made 5 sense for them because if they had the information 6 and somebody wanted it, they could then sell it. 7 So I would assume that Southwick Associates 8 added products and categories to their consumer 9 questionnaire as they were going so they could, you 10 know, reach whatever demand they were wanting. 11 And I don't recall, unfortunately, if they 12 did track it. It would have made my life easier if 13 I had a reliable source for it so I wouldn't have to 14 create it myself. 15 I assume they did not have it; therefore, I 16 had to create one myself. 17 Q Are you aware of any obstacle they would 18 have faced if NSSF had paid them to gather that 19 information? 20 MR. LEE: Objection. Lacks foundation. 21 Calls for speculation. 22 THE WITNESS: No. I'm not aware of any 23 obstacle. 24 BY MR. MEYERHOFF: 25 Q Was the reason NSSF did not ask</p> <p style="text-align: right;">Page 119</p>	<p>1 primary one that conducted how to come up with the 2 Magazine Chart and get all the data and look at the 3 sources and come up with the reliable estimates and 4 then I would have supplied that either to her to 5 make a chart or myself to make the chart, but one of 6 the two of us would have made the -- the chart that 7 you see that you have here as an exhibit. 8 Q Who else, if anyone, helped you develop 9 this chart? 10 A Well, I did -- I was responsible for the 11 bulk of the concept in creating it and digging 12 through all the sources that we had and then when I 13 came up with what I thought was a good plan and had 14 to do it or came up with a number, one of my go-to 15 sources to check with things was the president of 16 NSSF, Steve Sanetti. He has, you know, a wealth of 17 knowledge on the industry; one of the smartest or 18 most well-informed folks I've known in my 14 years 19 in the industry. 20 So I might have created the initial chart 21 but before releasing it to anybody, I wanted to run 22 it by him and give him my methodology and 23 corroborate and see if it needed any tweaks, but he 24 was somebody I relied on to help with it. 25 Q Did you rely on anyone else to help with</p> <p style="text-align: right;">Page 121</p>



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<p>1 it?</p> <p>2 A No.</p> <p>3 You know, nobody that I can remember having</p> <p>4 detailed conversations, but, you know, I'm -- you</p> <p>5 know, part of my process was to double-check and</p> <p>6 triple-check and have, you know, reliance on people</p> <p>7 that I -- I don't recall if I had done so with this</p> <p>8 Magazine Chart, but it's -- there is a possibility I</p> <p>9 might have ran it by a few others, say "Hey. Here's</p> <p>10 what I did. Here's how I do it. Here's what I got.</p> <p>11 What do you think?"</p> <p>12 But not as in depth as with Mr. Sanetti.</p> <p>13 Q And what was Mr. Sanetti's role at NSSF?</p> <p>14 A He was the president of NSSF when I was</p> <p>15 there.</p> <p>16 Q Is he still the president, to the best of</p> <p>17 your knowledge?</p> <p>18 A I believe he retired four years ago.</p> <p>19 Three, four years ago.</p> <p>20 THE REPORTER: Do you have the spelling on</p> <p>21 his name, please?</p> <p>22 THE WITNESS: S-a-n-e-t-t-i.</p> <p>23 THE REPORTER: Thank you.</p> <p>24 THE WITNESS: You're welcome.</p> <p>25 ///</p> <p style="text-align: right;">Page 122</p>	<p>1 "... the Chart further shows</p> <p>2 magazines capable of holding more</p> <p>3 than 10 rounds of ammunition</p> <p>4 accounted for approximately</p> <p>5 115 million or approximately half of</p> <p>6 all magazines owned"?</p> <p>7 Do you see that?</p> <p>8 A I do.</p> <p>9 Q And then in paragraph 9, you mention the</p> <p>10 sources of information you used to reach that</p> <p>11 conclusion; correct?</p> <p>12 (The record was read.)</p> <p>13 THE WITNESS: Yes. That is correct.</p> <p>14 BY MR. MEYERHOFF:</p> <p>15 Q And the three sources of information you</p> <p>16 used for this data are, 1, the ATF's AFMER report;</p> <p>17 2, documents from the International Trade</p> <p>18 Commission; and, 3, the opinions of firearm industry</p> <p>19 professionals. Correct?</p> <p>20 A Not documents from the ITC, but they had</p> <p>21 a -- a data web that was -- so you could query the</p> <p>22 system; so they weren't documents. They were a</p> <p>23 query system.</p> <p>24 Q Okay. So the three sources of information</p> <p>25 you relied on were the ATF AFMER report, information</p> <p style="text-align: right;">Page 124</p>
<p>1 BY MR. MEYERHOFF:</p> <p>2 Q Did Mr. Sanetti ever express his opinion to</p> <p>3 you, if any, on laws restricting large-capacity</p> <p>4 magazines?</p> <p>5 A I don't recall any discussions, but it's</p> <p>6 possible that we did have some.</p> <p>7 Q Sitting here today, are you aware of</p> <p>8 Mr. Sanetti's position, if any, on restrictions on</p> <p>9 large-capacity magazines?</p> <p>10 A I cannot speak for him, unfortunately. I'm</p> <p>11 not a mind reader, but -- and I know he was -- owned</p> <p>12 firearms and, worked for fire- -- in the industry</p> <p>13 for a long time, but I don't want to guess at what</p> <p>14 his positions are.</p> <p>15 Q In paragraph 8, you state that:</p> <p>16 "The NSSF Magazine Chart</p> <p>17 estimates that 230 million pistol and</p> <p>18 rifle magazines were in the</p> <p>19 possession of United States consumers</p> <p>20 between 1990 and 2015."</p> <p>21 Was that statement accurate, to the best of</p> <p>22 your knowledge, when you made it in 2017?</p> <p>23 A It was.</p> <p>24 Q And then you also -- do you see where it</p> <p>25 says in 8:</p> <p style="text-align: right;">Page 123</p>	<p>1 from the U.S. ITC, and opinions of firearm industry</p> <p>2 professionals; correct?</p> <p>3 A Correct.</p> <p>4 Q And in paragraph 10, you state:</p> <p>5 "The ATF AFMER" report "data</p> <p>6 provide historical figures for</p> <p>7 pistols by caliber (i.e., the</p> <p>8 specific ammunition cartridge for</p> <p>9 which a firearm is chambered) and</p> <p>10 rifles produced in the United States</p> <p>11 for consumer purchase."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q So is it fair to say that AFMER data</p> <p>15 includes the number of firearms by category that are</p> <p>16 manufactured in a given year?</p> <p>17 A They do provide different categories.</p> <p>18 U.S. manufacturers are required to report</p> <p>19 their production to the ATF, and I believe the</p> <p>20 categories are pistols, revolvers, shotguns, rifles,</p> <p>21 miscellaneous. I think those are the primary</p> <p>22 categories within the AFMER reports.</p> <p>23 Q And the AFMER report deals specifically</p> <p>24 with manufacture; correct?</p> <p>25 A U.S. manufacture; correct.</p> <p style="text-align: right;">Page 125</p>

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<p>1 Q And so it doesn't tell you how many 2 firearms were actually purchased in a given year; 3 correct?</p> <p>4 A Correct.</p> <p>5 Q And it doesn't tell you how many firearms 6 were actually purchased by private individuals, does 7 it?</p> <p>8 A It does not.</p> <p>9 Q So firearms that are manufactured in a 10 given year and cataloged in AFMER could come into 11 the possession of law enforcement agencies; correct?</p> <p>12 A I believe the AFMER report does not 13 include, like, military, but it would include some 14 law enforcement, but I'm a little -- I don't recall 15 if there was a threshold now, if they included all 16 firearms that could be purchased by law 17 enforcement -- certainly by an individual law 18 enforcement person -- but I'm not sure if it 19 included firearms produced for law enforcement 20 offices.</p> <p>21 Q So is it fair to say that firearms 22 manufactured in a given year and cataloged in AFMER 23 could come into the possession of some law 24 enforcement agencies; correct?</p> <p>25 A I believe so, yes.</p> <p style="text-align: right;">Page 126</p>	<p>1 Q The ITC data that you relied on -- it 2 doesn't tell you how many firearms were actually 3 purchased by private citizens in a given year; 4 correct?</p> <p>5 A Correct.</p> <p>6 Q And it doesn't tell you how many firearms, 7 if any, were imported in a given year, cataloged by 8 ITC and then came into the possession of some law 9 enforcement agencies; correct?</p> <p>10 A Correct.</p> <p>11 Q And firearms that are imported in a given 12 year and cataloged by ITC could come into the 13 possession of private security organizations; 14 correct?</p> <p>15 A Correct.</p> <p>16 Q Firearms that were imported in a given year 17 and cataloged by the ITC could come into the 18 possession of firearm wholesalers; correct?</p> <p>19 A Correct.</p> <p>20 Q Firearms that are imported in a given year 21 and cataloged by ITC could come into the possession 22 of firearms retailers; correct?</p> <p>23 A Correct.</p> <p>24 Q And the ITC does not track how many 25 firearms, if any, are illegally trafficked from the</p> <p style="text-align: right;">Page 128</p>
<p>1 Q And firearms that are manufactured in a 2 given year and cataloged in AFMER could come into 3 the possession of private security organizations; 4 correct?</p> <p>5 A Yes.</p> <p>6 Q And firearms that are manufactured in a 7 given year and cataloged in AFMER could come into 8 the possession of firearms wholesalers; correct?</p> <p>9 A Correct.</p> <p>10 Q And firearms that are manufactured in a 11 given year and cataloged into AFMER could come into 12 the possession of firearms retailers; correct?</p> <p>13 A Correct.</p> <p>14 Q AFMER data does not track how many firearms 15 are -- are illegally trafficked from the 16 United States into other countries, does it?</p> <p>17 A I'm sorry. Can you repeat that one? I 18 want to make sure --</p> <p>19 Q AFMER data does not track how many 20 firearms, if any, are illegally trafficked from the 21 United States to another country; correct?</p> <p>22 A Correct.</p> <p>23 Q AFMER data does not track numbers of 24 magazines at all; correct?</p> <p>25 A Correct.</p> <p style="text-align: right;">Page 127</p>	<p>1 United States into another country; correct?</p> <p>2 A To the best of my knowledge, they do not.</p> <p>3 Q Does AFMER data track firearm attrition 4 rates, meaning the rate of firearms that cease to be 5 functional due to loss, destruction, or 6 deterioration?</p> <p>7 A It does not.</p> <p>8 Q Does ITC data track that?</p> <p>9 A It does not.</p> <p>10 Q And ITC doesn't track magazines, does it?</p> <p>11 A I don't believe so. They have hundreds and 12 hundreds of codes and, you know, for the purpose of 13 this one, we were just looking at the firearms 14 imported minus exported, and, you know, I don't 15 recall that they -- the ITC tracks magazines or, at 16 least at the time, we didn't identify a code that 17 did.</p> <p>18 Q Are you aware of anyone in the firearms 19 industry who tracks how many people actually own 20 LCMs?</p> <p>21 A Just to confirm, LCM, large capacity 22 magazine, referring to 11-plus?</p> <p>23 No. I'm not aware of anybody. That 24 doesn't mean that somebody doesn't.</p> <p>25 Q So in paragraph 11, you state:</p> <p style="text-align: right;">Page 129</p>

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<p>1 "The ATF AFMER and ITC data 2 provided estimates of approximately 3 67.7 million pistols and 42.6 million 4 rifles capable of holding a magazine 5 were available to United States 6 consumers between 1990 and 2015." 7 Do you see that? 8 A Correct. Yeah. 9 Q What do you mean when you say "were 10 available to United States consumers"? 11 A That are available for purchase. 12 Q These numbers of 67.7 million pistols and 13 42.6 million rifles -- does that account for 14 firearms that may have been purchased by law 15 enforcement agencies? 16 A It may -- does it account for them? Are 17 they included in it? Or could they be included? 18 If you could rephrase that. 19 Q Sure. 20 So the number of "approximately 21 67.7 million pistols and 42.6 million rifles capable 22 of holding a magazine were available to 23 United States consumers between 1990 and 2015" -- do 24 you think it's likely that some of the firearms 25 imported into the United States were purchased by</p> <p style="text-align: right;">Page 130</p>	<p>1 A I do. 2 Q And so the figures in paragraph 11, the 3 67.7 million pistols and 42.6 million rifles, do 4 those numbers account for any of those 5 possibilities? 6 A Well, these numbers, you know, came from 7 the AFMER and ITC; so they could have had law 8 enforcement purchase some of these firearms. 9 Obviously the wholesalers and the retailers 10 would. 11 Q To be clear, the 67.7 million pistols and 12 the 42.6 million rifles is -- the data you 13 obtained -- is the data you obtained based on your 14 analysis of the AFMER and ITC data; correct? 15 A Right. 16 For the -- yeah. Adding up the U.S. 17 production from ATF AFMER and International Trade 18 Commission data, that's how we came up with the 67 19 million pistols and the 42 million rifles capable of 20 holding a magazine available to the U.S. consumer 21 market between those -- 1990 and 2015, yeah. 22 Q And you didn't make any adjustments to 23 that? 24 A No. 25 Those were the hard numbers coming from the</p> <p style="text-align: right;">Page 132</p>
<p>1 law enforcement agencies? 2 A I believe it's possible. I'm not sure 3 likely, but possible, yeah. 4 Q And do these figures for pistols and rifles 5 account for any magazine -- excuse me -- any 6 firearms that were purchased by law enforcement 7 agencies and thus would not be available to 8 United States consumers? 9 A I guess I just want to confirm. Like, you 10 know, an off-duty law enforcement that purchased a 11 firearm, that's a consumer. 12 But other than that, you know, there is a 13 possibility that -- you know, that that service 14 weapon is only used, you know, by that law 15 enforcement professional for work purposes, I 16 suppose. 17 Q Let me ask the question a different way. 18 So previously when I asked you about the 19 AFMER data and ITC data, I asked you about firearms 20 that could have come into the possession of some law 21 enforcement agencies, private security 22 organizations, firearm wholesalers, firearm 23 retailers, and firearms that were illegally 24 trafficked from the United States. 25 Do you recall me asking those questions?</p> <p style="text-align: right;">Page 131</p>	<p>1 AFMER and the ITC on the firearm production and 2 imports. 3 Q Thank you. 4 And then in the second sentence of 5 paragraph 11, you write: 6 "Firearm industry professionals 7 with knowledge of the pistol and 8 rifle magazine market then allocated 9 magazines to the totals to complete 10 the data provided in the NSSF 11 Magazine Chart." 12 Who were the firearm industry professionals 13 you're mentioning there? 14 A Myself and Steve Sanetti were the two that 15 I can recall. 16 There may or may not have been some others 17 that I asked to take a quick look at the data. 18 Again, we're not going to put out anything 19 to our members that we don't think is going to be as 20 accurate as possible. 21 And as referenced earlier, without a direct 22 source for this, we had to merge the ATF and the ITC 23 data and then discuss, you know -- apply how many 24 magazines for pistols and how many for firearms that 25 we think would be the best estimate to create the</p> <p style="text-align: right;">Page 133</p>



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<p>1 Magazine Chart.</p> <p>2 Q I'm sorry. Just to clarify.</p> <p>3 Why do you believe that</p> <p>4 Southwick Associates did not have that accurate</p> <p>5 source?</p> <p>6 A They were just not somebody that I needed</p> <p>7 to use at the time. I felt confident that using the</p> <p>8 ATF data and the ITC data -- we could get some hard</p> <p>9 numbers and, you know, applying a percentage between</p> <p>10 Steve and myself, and if any others were involved, I</p> <p>11 felt we didn't need to go outside and -- and hire</p> <p>12 anybody to do it. It was one of the things we could</p> <p>13 do inside.</p> <p>14 Q At the time you consulted with Mr. Sanetti,</p> <p>15 he was your boss; correct?</p> <p>16 A He was the president. I didn't directly</p> <p>17 report to him. I was a couple levels below him, but</p> <p>18 he was very open and willing to assist, you know,</p> <p>19 any time I needed help.</p> <p>20 Q What, if anything, do you recall</p> <p>21 Mr. Sanetti saying about the Magazine Chart you</p> <p>22 created?</p> <p>23 A You know, he was -- you know, I told him</p> <p>24 the purpose was, you know, to get us outdoor members</p> <p>25 and make sure they had a reliable source, and I</p> <p style="text-align: right;">Page 134</p>	<p>1 but I don't know if they manufactured them</p> <p>2 themselves or if -- if they purchased them from an</p> <p>3 outside manufacturer to include with the sale of</p> <p>4 their firearms.</p> <p>5 Q I'm going to draw your attention to</p> <p>6 Exhibit A of your declaration.</p> <p>7 Is this the Magazine Chart that you created</p> <p>8 with Mr. Sanetti's input?</p> <p>9 A It is.</p> <p>10 Q Did you list Mr. Sanetti anywhere on this</p> <p>11 Magazine Chart?</p> <p>12 A I did not. I always like to try to put a</p> <p>13 source line and it looks like the source line says</p> <p>14 "ATF AFMER, International Trade Commission figures</p> <p>15 combined with NSSF and fire industry estimates."</p> <p>16 So he would be part of that last portion of</p> <p>17 it but not specifically naming him, no.</p> <p>18 Q Do you recall why you didn't specifically</p> <p>19 name him?</p> <p>20 A I just -- I don't know if people would have</p> <p>21 known who -- who he was if I put him on there.</p> <p>22 I never put an individual person as a</p> <p>23 source. I would always use that kind of tag line.</p> <p>24 If it was Southwick Associates or whoever</p> <p>25 helped me conduct the study, I always liked to put</p> <p style="text-align: right;">Page 136</p>
<p>1 didn't want to put anything out that, you know, I</p> <p>2 didn't think was inaccurate or he didn't think was</p> <p>3 inaccurate; so he was fine with the conclusions that</p> <p>4 we came up with.</p> <p>5 Again, the last thing we want to do is give</p> <p>6 incorrect data to the people that are paying us to</p> <p>7 be our members, and if they make the wrong decision</p> <p>8 based on that data, they wouldn't be happy with us,</p> <p>9 you know.</p> <p>10 Q Did Mr. Sanetti tell you what specific</p> <p>11 sources of data he relied on in allocating magazines</p> <p>12 for the Magazine Chart?</p> <p>13 A I think it was just his personal knowledge.</p> <p>14 He had worked for one of the larger</p> <p>15 manufacturers. I think he was the president of</p> <p>16 Sturm, Ruger, which is a large firearm manufacturer,</p> <p>17 for many years and just had a very good knowledge of</p> <p>18 firearms and components and parts that go in and</p> <p>19 around the firearm, including magazines.</p> <p>20 Someone I had a high trust in.</p> <p>21 Q Do you know if Sturm, Ruger produces large</p> <p>22 capacity magazines?</p> <p>23 A Again, similar to Smith &amp; Wesson, you know,</p> <p>24 they produce firearms that would be capable of</p> <p>25 holding all different types of detachable magazines,</p> <p style="text-align: right;">Page 135</p>	<p>1 some sort of information on there, but I don't think</p> <p>2 I've ever put an individual's name specifically on a</p> <p>3 source.</p> <p>4 Q But would it be fair to say, when on the</p> <p>5 sources you list firearm industry estimates, you</p> <p>6 really mean Mr. Sanetti's estimates, don't you?</p> <p>7 A Myself, his, and, like I said, it's very</p> <p>8 possible I had to ask others but just not in the</p> <p>9 capacity that I had asked Mr. Sanetti.</p> <p>10 Q So to be clear on the process, you</p> <p>11 essentially told Mr. Sanetti "There is X number of</p> <p>12 pistols out there. How many do you think come with</p> <p>13 a magazine holding more than 10 rounds?"</p> <p>14 Is that a fair assessment?</p> <p>15 A Yeah.</p> <p>16 The conversation I recall "Here is what I</p> <p>17 had done so far. Used the AFMER and the ITC data.</p> <p>18 Here's the numbers I came up with for the amount of</p> <p>19 pistols that will hold the magazine." Doesn't</p> <p>20 matter what, you know quantity, and "Here is the</p> <p>21 number of rifles."</p> <p>22 And then we -- we tried to break that down.</p> <p>23 The AFMER does give some information on</p> <p>24 caliber and -- and obviously, you know, long guns,</p> <p>25 we -- we didn't include shotguns or lever-action</p> <p style="text-align: right;">Page 137</p>

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<p>1 guns or pump-action guns.</p> <p>2 You know, we just counted the guns that</p> <p>3 could hold the magazine and then Mr. Sanetti and I</p> <p>4 went out and figured out, "Okay. How many of</p> <p>5 those," you know, "magazines that are in that type</p> <p>6 of firearm would be under 10," you know, "10 or</p> <p>7 over," and then for the -- there's only really the</p> <p>8 two categories for pistols.</p> <p>9 For the rifles, we decided to do 10 and</p> <p>10 under, 11 to 29, and then that 30-plus.</p> <p>11 You know, I'm just recalling, you know,</p> <p>12 when I would put stuff out, sometimes I would get</p> <p>13 called on it and somebody would say "That doesn't</p> <p>14 look right," but when we put this out, I don't</p> <p>15 recall anybody ever saying to take another look at</p> <p>16 it.</p> <p>17 So, you know, including those industry</p> <p>18 estimates are -- whoever had seen that -- right? --</p> <p>19 they would have said "Give me a call. That doesn't</p> <p>20 look right, Jim. How the heck did you come up with</p> <p>21 that number?"</p> <p>22 If that had ever happened, I would have</p> <p>23 went back and revised it with their input, but we</p> <p>24 did not receive any such feedback on this one.</p> <p>25 So pretty confident that this was a good</p> <p style="text-align: right;">Page 138</p>	<p>1 A combination of his and mine. We were on</p> <p>2 the same page, from what I recall.</p> <p>3 Like, I wasn't thinking it's, you know, two</p> <p>4 per firearm and he was thinking 10 per firearm. I</p> <p>5 think we were on the same page, ballpark, when we</p> <p>6 did discuss this.</p> <p>7 Q But would it ultimately be fair to say that</p> <p>8 you deferred to Mr. Sanetti in allocating the number</p> <p>9 of magazines for the firearms reflected in the AFMER</p> <p>10 and ITC data?</p> <p>11 A I don't recall deferring because, like I</p> <p>12 said, we were on the same page.</p> <p>13 Now, if we were way off, I would have taken</p> <p>14 his opinion over mine, but on this one, I think we</p> <p>15 were in pretty good agreement.</p> <p>16 MR. MEYERHOFF: I want to mark --</p> <p>17 THE WITNESS: Maybe after this line of</p> <p>18 questioning, we can take a break. I just need to</p> <p>19 hit the restroom. Are we near the end?</p> <p>20 MR. MEYERHOFF: We're just a couple minutes</p> <p>21 away if that's --</p> <p>22 THE WITNESS: Okay. Keep going if that's</p> <p>23 okay with everybody else.</p> <p>24 MR. MEYERHOFF: So I want to go ahead</p> <p>25 and -- let's see -- mark as Exhibit 7 the following</p> <p style="text-align: right;">Page 140</p>
<p>1 estimate that our members could use to make a decent</p> <p>2 business decision.</p> <p>3 Q Would it be fair to say that the expertise</p> <p>4 employed in creating this chart was really with the</p> <p>5 allocation of magazines to a particular firearm?</p> <p>6 Correct?</p> <p>7 A I would like to think that not too many</p> <p>8 people could do what I've done with the ATF and the</p> <p>9 ITC data unless it would have been done and saved me</p> <p>10 all the trouble; so I think that's my expertise.</p> <p>11 And then being able to, you know, know the</p> <p>12 right people to run it by and, you know, takes a</p> <p>13 certain amount of expertise.</p> <p>14 And certainly Mr. Sanetti's -- I considered</p> <p>15 him very knowledgeable about that, but it wasn't --</p> <p>16 wasn't easy to do any -- any of the three parts of</p> <p>17 it or -- you know, from start to finish, it was</p> <p>18 something that was a challenge and I -- I like</p> <p>19 digging into those type of things and looking at</p> <p>20 numbers probably more than I should.</p> <p>21 Q Would it be fair to say that the</p> <p>22 allocations of magazines to the firearms identified</p> <p>23 in the AFMER and ITC reports was based on</p> <p>24 Mr. Sanetti's expertise?</p> <p>25 A Yeah.</p> <p style="text-align: right;">Page 139</p>	<p>1 document.</p> <p>2 (The document referred to was marked as</p> <p>3 Deposition Exhibit 7 by the Reporter.)</p> <p>4 BY MR. MEYERHOFF:</p> <p>5 Q Can you see this document on your screen?</p> <p>6 It's entitled "Transcript of James Curcuruto," Date:</p> <p>7 January 24, 2014. Case Kolbe, et al., versus</p> <p>8 O'Malley, et al."</p> <p>9 Do you see that?</p> <p>10 A I do.</p> <p>11 Q Do you recall giving a deposition in this</p> <p>12 case?</p> <p>13 A I do, yes.</p> <p>14 Q Okay. I'm going to scroll down.</p> <p>15 MR. MEYERHOFF: And I will represent to</p> <p>16 plaintiffs' counsel that this is the entire -- the</p> <p>17 entire deposition transcript.</p> <p>18 BY MR. MEYERHOFF:</p> <p>19 Q So we can start at paragraph -- excuse me.</p> <p>20 We can start at page 40, line 10.</p> <p>21 Do you see that, Mr. Curcuruto?</p> <p>22 A I do.</p> <p>23 I mean, if you can, make the screen bigger.</p> <p>24 I don't know if you can. I can see it pretty good.</p> <p>25 Q Yeah. Let me see.</p> <p style="text-align: right;">Page 141</p>

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<p>1 Can you see it now?</p> <p>2 A It just cut it off. I don't know if you</p> <p>3 can get rid of that arrow on the left or get rid of</p> <p>4 that part of it.</p> <p>5 Q Yes. I wish I was more tech savvy.</p> <p>6 Let's see.</p> <p>7 Okay. How about that?</p> <p>8 A That may be just -- if you can make the</p> <p>9 font bigger now, we should be good.</p> <p>10 Oops. Wrong way.</p> <p>11 Q Can you see it now?</p> <p>12 A Perfect.</p> <p>13 Starting at line 10, is that where you</p> <p>14 want?</p> <p>15 Q Yes.</p> <p>16 A Okay. Okay. Yeah.</p> <p>17 Q And I'll just stop at line 6 where it says:</p> <p>18 "Well, it's something of a</p> <p>19 hypothetical because, again, I relied</p> <p>20 on Mr. Sanetti's so I didn't question</p> <p>21 his."</p> <p>22 A Yes. I see the line above that. I would</p> <p>23 consider myself an expert, not as much as</p> <p>24 Mr. Sanetti, which is true.</p> <p>25 Q Okay. So do you see at line 3 where it</p> <p style="text-align: right;">Page 142</p>	<p>1 Q I'm just a little confused because when you</p> <p>2 were deposed in 2014 and you were asked how did you</p> <p>3 go about estimating how many pistol magazines there</p> <p>4 would be, you said "Well, it's somewhat hypothetical</p> <p>5 because I relied on Mr. Sanetti's so I didn't</p> <p>6 question his."</p> <p>7 MR. LEE: Objection. Misstates testimony.</p> <p>8 THE WITNESS: Again, you're correct.</p> <p>9 As we read before, I consider myself an</p> <p>10 expert but not as much as Mr. Sanetti and it even</p> <p>11 said before that, I was part of a process that got</p> <p>12 it going.</p> <p>13 So it does seem like you're just trying to</p> <p>14 cherry-pick over and over which, you know, I don't</p> <p>15 think that's, you know, the right thing to do in</p> <p>16 this instance, but I think you know that too.</p> <p>17 BY MR. MEYERHOFF:</p> <p>18 Q Well, I guess I'm wondering what you mean</p> <p>19 by "it's somewhat hypothetical."</p> <p>20 A In 2014, I have no idea what I meant by</p> <p>21 that at this point. Probably answering the same</p> <p>22 question four times and got a little tired, maybe.</p> <p>23 MR. LEE: I'll also state for the record</p> <p>24 that that answer also seemed like it was cut off.</p> <p>25 ///</p> <p style="text-align: right;">Page 144</p>
<p>1 says:</p> <p>2 "Q So, with respect to your</p> <p>3 expertise, then, how would you go</p> <p>4 about estimating how many pistol</p> <p>5 magazines there will be? We'll start</p> <p>6 there."</p> <p>7 "A Well, it's somewhat</p> <p>8 hypothetical because, again, I relied</p> <p>9 on Mr. Sanetti/s so I didn't question</p> <p>10 his."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Was that testimony accurate when you gave</p> <p>14 it in 2014?</p> <p>15 A Yeah.</p> <p>16 Everything that I just read that included</p> <p>17 I'd consider myself an expert but not as much as an</p> <p>18 expert as Mr. Sanetti's; correct.</p> <p>19 Q But in this case -- excuse me, not in this</p> <p>20 case.</p> <p>21 With regard to the Magazine Chart, you</p> <p>22 relied on Mr. Sanetti's expertise as to allocating</p> <p>23 the number of magazines per firearm; correct?</p> <p>24 A Along with my own, yes. I relied on his,</p> <p>25 and luckily we came to the same conclusion.</p> <p style="text-align: right;">Page 143</p>	<p>1 BY MR. MEYERHOFF:</p> <p>2 Q We can go down further. The question says:</p> <p>3 "Q Let me make sure I</p> <p>4 understand. You're saying that you</p> <p>5 never considered yourself what you</p> <p>6 would estimate that breakdown to be;</p> <p>7 is that right?"</p> <p>8 And then you say:</p> <p>9 "A I did, I'm sure at the time,</p> <p>10 but, again, I referred it to</p> <p>11 Mr. Sanetti because I knew his</p> <p>12 opinion on this or estimation on it</p> <p>13 would be more accurate than mine.</p> <p>14 But I can't recall, you know, what I</p> <p>15 thought, if I looked at the</p> <p>16 100 million and said, well, let me</p> <p>17 ask him first, and then there's</p> <p>18 really no need for me to supercede</p> <p>19 his estimate."</p> <p>20 Do you see that there?</p> <p>21 A I do.</p> <p>22 Q And was that testimony accurate in 2014?</p> <p>23 A It looks to be again we met. I had given</p> <p>24 him what I had so far. He probably had a little</p> <p>25 tweak to it and I'm going to take his ideas over</p> <p style="text-align: right;">Page 145</p>

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<p>1 mine.</p> <p>2 But from what I recall, we were on the same</p> <p>3 page. We were not way off or anything near there.</p> <p>4 Q And I think that portion of the deposition</p> <p>5 transcript that we just looked at was referring to</p> <p>6 pistol magazines.</p> <p>7 Did you engage in the same process for</p> <p>8 rifle magazines that you did for pistol magazines?</p> <p>9 A Correct. At the same time.</p> <p>10 MR. MEYERHOFF: We can take a break now. I</p> <p>11 don't want to hold you longer.</p> <p>12 THE WITNESS: All right. I only need a</p> <p>13 couple minutes.</p> <p>14 (A brief recess was taken.)</p> <p>15 BY MR. MEYERHOFF:</p> <p>16 Q I'm going to put your declaration back up</p> <p>17 on the screen, Mr. Curcuruto.</p> <p>18 And so in paragraph 11, you provide the</p> <p>19 number of "67.7 million pistols and 42.6 million</p> <p>20 rifles capable of holding a magazine" that "were</p> <p>21 available to United States consumers between 1990</p> <p>22 and 2015."</p> <p>23 Do you see that?</p> <p>24 A I do.</p> <p>25 Q And the total number of magazines that you</p> <p style="text-align: right;">Page 146</p>	<p>1 per firearm that's capable of holding a magazine and</p> <p>2 whether that's, you know -- that comes with the</p> <p>3 purchase or bought after market where the firearm --</p> <p>4 most firearms would come with either 1 or 2 and then</p> <p>5 there's the option for the consumer to purchase</p> <p>6 additional magazines from firearm retailers and</p> <p>7 other sources.</p> <p>8 Q Do you recall why you didn't just say</p> <p>9 2 magazines per firearm and reach a total of</p> <p>10 approximately 220 million magazines?</p> <p>11 A I do not recall.</p> <p>12 Q Do you recall, was there a specific formula</p> <p>13 you used to reach the 230 million magazine number?</p> <p>14 A If you go to that chart again, I think we</p> <p>15 had certain -- we didn't just say 2 per firearm. We</p> <p>16 looked at -- I believe there's 5 categories on</p> <p>17 pistols. We had 2 categories, 10 and under,</p> <p>18 11-plus, and then on the rifles, we had the 3</p> <p>19 categories. I believe it's 10 and under, 11 to 29,</p> <p>20 and 30-plus.</p> <p>21 So we looked at those 5 different breakouts</p> <p>22 and tried to apply what number we thought was best</p> <p>23 and, you know, came up with that total of</p> <p>24 230 million that we put out to our members, again,</p> <p>25 without wanting to provide them with anything that</p> <p style="text-align: right;">Page 148</p>
<p>1 estimated were in possession of United States</p> <p>2 consumers during that period were 230 million</p> <p>3 magazines; correct?</p> <p>4 A Correct.</p> <p>5 Q So would you agree with me that</p> <p>6 67.7 million pistols and 42.6 million rifles would</p> <p>7 total 110.3 million firearms? Correct?</p> <p>8 A Sounds right.</p> <p>9 Q So would you agree that to get to</p> <p>10 approximately 230 million magazines based on that</p> <p>11 data, you would need to allocate 2.085 magazines per</p> <p>12 rifle and pistol?</p> <p>13 A Correct.</p> <p>14 Q So was there a specific formula you used</p> <p>15 when creating the chart to -- let me step back.</p> <p>16 So the numbers you provided in your</p> <p>17 declaration, there was approximately 120 million</p> <p>18 more magazines available to American consumers</p> <p>19 during that time period than firearms; correct?</p> <p>20 A Correct.</p> <p>21 Q So how did you allocate that approximately</p> <p>22 additional 120 million magazines to, you know, the</p> <p>23 110 million firearms?</p> <p>24 A To the best of my recollection, Mr. Sanetti</p> <p>25 and I determined that it would be about 2 magazines</p> <p style="text-align: right;">Page 147</p>	<p>1 we didn't think accurate, and we did not receive any</p> <p>2 feedback from any of our members that may or may not</p> <p>3 have seen this and said that they didn't think that</p> <p>4 it looked correct to them [as spoken].</p> <p>5 Q Do you recall receiving any type of</p> <p>6 feedback from your members with regard to this</p> <p>7 Magazine Chart?</p> <p>8 A I do not recall any specific feedback on</p> <p>9 this.</p> <p>10 Q Is that -- was that unusual with -- with</p> <p>11 information you put out to your members?</p> <p>12 A We put out dozens, if not hundreds, of</p> <p>13 pieces of information on an annual basis; so if one</p> <p>14 did not receive any feedback, it was not unusual.</p> <p>15 We did receive a lot of feedback on reports</p> <p>16 and data that we put out thanking us for it putting</p> <p>17 it out, because, you know, we requested that our</p> <p>18 members not just solely rely on what we put out, but</p> <p>19 they also use it with their internal sources.</p> <p>20 You know, there are professionals that work</p> <p>21 with each one of our member organizations and they</p> <p>22 would take the data that they had and the data we</p> <p>23 had and any outside information to help them make</p> <p>24 those best-informed business decisions.</p> <p>25 Q So looking at the chart for pistol</p> <p style="text-align: right;">Page 149</p>



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<p>1 magazines, there's two bars. One is for pistol 2 magazines, 10 rounds or less, and another is for 3 pistol magazines, 11-plus rounds. 4 Do you see that? 5 A Yes. 6 Q And would it be fair to say the total 7 numbers, 81,240,000 and 54,160,000 -- those numbers 8 combined are essentially the number of pistols 9 available to consumers between 1990 and 2015 as you 10 ascertained from AFMER data and ITC data multiplied 11 by 2? 12 A Can you make the chart bigger? I can't 13 read the numbers there. 14 So you were referencing the pistol 15 magazines, 10 or less, 81.2 million, and the pistol 16 magazines, 11-plus, 54.1 million? 17 Q That's right. 18 A And then what was the question after that? 19 Q The question is I have that total being 20 135,400,000. 21 Is it fair to say that overall number was 22 obtained simply by multiplying the number of pistols 23 that you determined were available to American 24 consumers during the time period by 2? 25 A I do not recall specifically if that's how</p> <p style="text-align: right;">Page 150</p>	<p>1 accurate data to our membership. 2 Q Do the numbers contained in this 3 Magazine Chart reflect attrition in the number of 4 magazines due to loss, destruction, or deterioration 5 that may have occurred? 6 A Not to my knowledge, it does not. 7 Q This Magazine Chart doesn't contain any 8 information on why someone would purchase an LCM, 9 does it? 10 A On why somebody would purchase? 11 No, it does not. 12 Q And would it be fair to say that this chart 13 tracks sales of magazines, not possession of them? 14 A It -- let's see. The chart is labeled 15 "Consumer Possession 1990 - 2015." 16 So the chart makes the assumption that 17 these are in consumer possession during that time 18 period. 19 Q And the data that you relied on to 20 determine the overall number of magazines in 21 possession was the AFMER and ITC data; correct? 22 A Correct. 23 Which is the firearm production in the U.S. 24 and the import data from the ITC, assuming that, you 25 know, companies aren't going to manufacture</p> <p style="text-align: right;">Page 152</p>
<p>1 I had done that at the time. 2 Q And do you recall specifically how you 3 allocated, among that 135,400,000 pistol magazines 4 you estimated -- how you allocated how many were 5 10 rounds or less and how many were more than -- 6 11 rounds or more? 7 A That was with a conversation I had with 8 Mr. Sanetti and these were the numbers that we came 9 up with and put out in good faith to our members to 10 help them make better business decisions. 11 Q And moving over to the right, there's three 12 columns for rifle magazines. 13 Do you know how you came up with the total 14 number of rifle magazines in U.S. consumer 15 possession 1990 to 2015? 16 A That would have been with the conversation 17 with Mr. Sanetti and anybody else that I may have 18 spoken with on the topic. 19 Q And do you have any formula for how you 20 allocated the total number of rifle magazines within 21 these three categories, 10 rounds or less, 11 to 29 22 rounds, and 30-plus rounds? 23 A I don't recall specifically, but I know 24 Mr. Sanetti and I came up with the allocation that 25 we thought would be best to be able to put out</p> <p style="text-align: right;">Page 151</p>	<p>1 something each year without selling it. 2 Q Does this chart account for magazines that 3 may have been exported from the United States? 4 A It does not include any export of 5 magazines. 6 Q If you had to do the chart over again, 7 would you include an analysis of how many -- or what 8 an analysis of magazines that had fallen into disuse 9 or been exported be a part of that analysis? 10 A This chart is seven years old. There would 11 be -- I would probably look at any new source data 12 that's out there. 13 I know whenever we put out things that are 14 estimates and it does say "Estimated" on the chart, 15 that we erred on the side of caution and put out a 16 lower number than what, quite possibly, could be -- 17 could be more. 18 This is the minimum amount that we felt 19 comfortable with. We didn't want to overstate 20 anything, but it's possible that there are more than 21 230 million. Just to be cautious, we didn't want to 22 overshoot anything. 23 Q Would it be fair to describe the NSS- -- 24 NSSF Magazine Chart -- would it -- sorry. I'll 25 rephrase.</p> <p style="text-align: right;">Page 153</p>



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<p>1 Would it be fair to describe your work on 2 this chart, in part, as involving statistical 3 analysis? 4 A Not complex statistical analysis but 5 certainly math involved. 6 Q Would it be fair to say it's simple 7 statistical analysis? 8 A I don't, as I referenced before. 9 Maybe not everybody could have understood 10 the process and the resources available or the 11 sources available to come up with it, but it is 12 certainly not complex. 13 Q Would you describe the number of total 14 magazines in consumer possession from 1990 to 2015 15 as a statistic? 16 A The 230 million total magazines available 17 for consumer possession between 1990 and 2015 could 18 be considered a statistic, sure. 19 Q And the same thing with the subcategories 20 of rifle magazines and pistol magazines; correct? 21 A As referenced in the chart? 22 Q Sure. 23 A Correct. 24 Q Are you familiar with an organization 25 called the American Statistical Association?</p> <p style="text-align: right;">Page 154</p>	<p>1 A Correct. 2 Q I'm going to direct your attention to 3 page 4 [as spoken]," and I'll zoom in at 4 paragraph 2. 5 Do you see where it says "The ethical 6 statistical practitioner"? 7 A Yes. 8 Q And do you see Number 2 where it says: 9 "Uses methodology and data that 10 are valid, relevant, and appropriate 11 without favoritism or prejudice, and 12 in a manner intended to produce valid 13 interpretable, and reproducible 14 results"? 15 Do you see that? 16 A I do. 17 Q Do you agree with the position taken by 18 this document, namely, that an ethical statistical 19 practitioner should use "methodology and data that 20 are valid, relevant, and appropriate without 21 favoritism or prejudice, and in a manner, intended 22 to produce valid, interpretable, and reproducible 23 results"? 24 MR. LEE: I will object to the question. 25 It lacks foundation.</p> <p style="text-align: right;">Page 156</p>
<p>1 A I am not. 2 MR. MEYERHOFF: I'm going to mark as 3 Exhibit 7, I believe -- 4 THE REPORTER: No. 8 is next. 5 MR. LEE: 8. 6 (The document referred to was marked as 7 Deposition Exhibit 8 by the Reporter.) 8 BY MR. MEYERHOFF: 9 Q Do you see a document on a screen called 10 "Ethical Guidelines for Statistical Practice"? 11 A Is it dated February 2022? 12 Q Yes. That's correct. 13 A I do see it, yes. 14 Q And you just testified a moment ago that 15 you're not familiar with this organization; correct? 16 A Correct. 17 Q So it would be fair to say you're not a 18 member; correct? 19 A Not to my knowledge. Unless they offer 20 free membership for everybody. 21 Q So would it be fair to say you've never 22 seen this document, "Ethical Guidelines for 23 Statistical Practice" prepared by the Committee on 24 Professional Ethics of the American Statistical 25 Association?</p> <p style="text-align: right;">Page 155</p>	<p>1 This witness has indicated he's never seen 2 this document. There is -- so he can't authenticate 3 this document and without foundation, you're asking 4 him to agree or disagree with something that he's 5 never seen before. 6 So I'm going to object on the grounds that 7 it lacks foundation. 8 BY MR. MEYERHOFF: 9 Q You can answer the question. 10 A I'm going to have to review the document in 11 more detail. 12 Q Let me ask a question not about the 13 document. 14 Do you believe that an ethical statistical 15 practitioner should use methodology and data that 16 are valid, relevant, and appropriate without 17 favoritism or prejudice and in a manner intended to 18 produce valid and interpretable and reproducible 19 results? 20 MR. LEE: Objection. Lacks foundation. 21 And it's compound many times over. 22 THE WITNESS: I believe, you know, 23 statisticians should put out accurate and timely 24 data that's going to help support their members' 25 needs and that's what I did at NSSF whenever we put</p> <p style="text-align: right;">Page 157</p>

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<p>1 out any report, whether internal or external.  2 We're not going to give it out to our  3 members. The last thing we're going to do is give  4 our members bad data. If we put out data that said  5 230 million magazines, why would we give them  6 information that we don't believe is valid? That  7 would be very hurtful to our members and they  8 wouldn't be members and we wouldn't have an  9 organization anymore.  10 So doesn't make much sense what you're --  11 what you're trying to get at, I don't think.  12 BY MR. MEYERHOFF:  13 Q Would it be possible for another individual  14 to reproduce the statistical analysis that you did  15 in the magazine chart?  16 A Not in the same exact way that I had done.  17 Q NSSF is a membership-based organization  18 that includes manufacturers of magazines; correct?  19 A They most likely do.  20 I don't know the -- every -- the make-up of  21 every member of -- out of the 12,000 when I was with  22 the organization.  23 I don't know all of them, but there is a  24 good possibility that manufacturers of magazines  25 were members of NSSF.</p> <p style="text-align: right;">Page 158</p>	<p>1 Do you believe that an ethical statistical  2 practitioner discloses conflicts of interest?  3 MR. LEE: Still calls for an opinion.  4 THE WITNESS: My opinion is everybody  5 should be -- should be ethical, not just  6 statisticians.  7 BY MR. MEYERHOFF:  8 Q Do you believe --  9 A Lawyers included.  10 Q I'm sorry. I interrupted you.  11 A I said lawyers included.  12 Q Do you believe there were any conflicts of  13 interest involved in creating the Magazine Chart?  14 A I do not.  15 Q Your position at NSSF was funded, in part,  16 by firearms manufacturers. Would it be fair to say  17 that?  18 A I suppose it would.  19 They were dues-paying members and that's  20 how we got -- NSSF had received revenue; so that's  21 how they paid their staff.  22 Q Would it be fair to say that at least some  23 of NSSF's members would benefit financially from the  24 ability to sell large-capacity magazines into states  25 such as in California?</p> <p style="text-align: right;">Page 160</p>
<p>1 Q Are you aware if any were at the time?  2 A I am not.  3 Q Do you think it's in the business interests  4 of NSSF members to have California's restrictions on  5 large-capacity magazines invalidated?  6 MR. LEE: Objection. It calls for an  7 opinion well beyond the scope of what he was asked  8 to do.  9 You may answer.  10 THE WITNESS: I haven't really thought that  11 through. I don't have much of an opinion on that  12 right now.  13 BY MR. MEYERHOFF:  14 Q Would you agree with the statement that an  15 ethical statistical practitioner discloses conflicts  16 of interest, financial or otherwise, and manages or  17 resolves them according to established policies,  18 regulations, and laws?  19 MR. LEE: Objection. Lacks foundation.  20 Object to the form of the question.  21 You can answer.  22 THE WITNESS: What was the question?  23 BY MR. MEYERHOFF:  24 Q Do you believe that an ethical -- I'll  25 simplify the question.</p> <p style="text-align: right;">Page 159</p>	<p>1 MR. LEE: Objection. Calls for  2 speculation.  3 THE WITNESS: I would assume that if a  4 manufacturer of magazines that holds more rounds,  5 had more customers that they could legally sell to,  6 then it would benefit and if they were members of  7 NSSF, that would, then, benefit NSSF members.  8 BY MR. MEYERHOFF:  9 Q So why is that not a conflict of interest?  10 MR. LEE: Objection. Lacks foundation.  11 Calls for speculation.  12 THE WITNESS: I think we talked about  13 ethics; about the last thing that I'm going to do is  14 put out misinformation.  15 If that number was wrong and a member made  16 a decision and went out of business, that doesn't  17 help NSSF at all; so -- probably helps you guys if  18 it ever went out of business, but we weren't in the  19 business of providing misinformation to our member  20 base.  21 MR. LEE: Also object to the question on  22 the grounds that it lacks foundation.  23 I mean ethical -- conflict of interest  24 presumes or assumes that -- implies that there is a  25 duty of some type. Duty to whom? Some type of</p> <p style="text-align: right;">Page 161</p>

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<p>1 legal duty?</p> <p>2 So I'm going to object to the question that</p> <p>3 it calls for a legal opinion as to conflict of</p> <p>4 interest.</p> <p>5 I'm not aware that you've identified a</p> <p>6 duty, specific duty, that he has, and, if so, to</p> <p>7 whom.</p> <p>8 So I don't think the question makes sense.</p> <p>9 MR. MEYERHOFF: Can you read back the</p> <p>10 answer, Ms. Miller.</p> <p>11 (The record was read.)</p> <p>12 BY MR. MEYERHOFF:</p> <p>13 Q So based on that answer -- and correct me</p> <p>14 if I'm wrong -- that only -- that conflicts of</p> <p>15 interest should only be disclosed when the person</p> <p>16 releasing the information believes that it may be</p> <p>17 incorrect?</p> <p>18 MR. LEE: Objection. Misstates testimony.</p> <p>19 THE WITNESS: I mean, I -- can you -- I'll</p> <p>20 pass on that question.</p> <p>21 Your conflict of interest, you know, goes a</p> <p>22 lot of ways for a lot of different things.</p> <p>23 Different -- you'll have to clarify that question.</p> <p>24 BY MR. MEYERHOFF:</p> <p>25 Q So you believe there is no conflict of</p> <p style="text-align: right;">Page 162</p>	<p>1 magazines with a capacity greater</p> <p>2 than 10 rounds in circulation is an</p> <p>3 estimation based on extrapolation</p> <p>4 from indirect sources and cannot be</p> <p>5 confirmed as unequivocally</p> <p>6 accurate" --</p> <p>7 Do you recall why you included that phrase</p> <p>8 in your declaration?</p> <p>9 A Just to clarify that, again, this was not</p> <p>10 an absolute number that came from one source that</p> <p>11 was indisputable, but I wanted to clarify that, you</p> <p>12 know, it was an estimate and we're not saying that</p> <p>13 it's an exact figure at all, just an estimate, and</p> <p>14 we came up with it in the best way we could, using</p> <p>15 the best sources, and put it out to our members so</p> <p>16 they could make informed decisions.</p> <p>17 MR. MEYERHOFF: I'm going to go ahead and</p> <p>18 pull up something that I'll mark as --</p> <p>19 THE REPORTER: Exhibit 9.</p> <p>20 MR. MEYERHOFF: -- Exhibit 9. Thank you.</p> <p>21 Thank you.</p> <p>22 (The document referred to was marked as</p> <p>23 Deposition Exhibit 9 by the Reporter.)</p> <p>24 BY MR. MEYERHOFF:</p> <p>25 Q Do you see the top of the document? It</p> <p style="text-align: right;">Page 164</p>
<p>1 interest request NSSF putting out a chart -- let me</p> <p>2 rephrase.</p> <p>3 So you believe there were no conflicts of</p> <p>4 interest implicated by NSSF's release of this chart;</p> <p>5 correct?</p> <p>6 A We put out that chart to help our members</p> <p>7 make better business decisions. That was our</p> <p>8 primary goal of all the research we put out there.</p> <p>9 Q I'm going to return to your declaration.</p> <p>10 In paragraph 13, you state:</p> <p>11 "While the figure of 115 million</p> <p>12 magazines with a capacity greater</p> <p>13 than 10 rounds in circulation is an</p> <p>14 estimation based on extrapolation</p> <p>15 from indirect sources and cannot be</p> <p>16 confirmed as unequivocally accurate,</p> <p>17 it is safe to say that whatever the</p> <p>18 actual number of such magazines in</p> <p>19 United States consumers' hands, it is</p> <p>20 in the ten of millions, even under</p> <p>21 the most conservative estimates."</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q The first part of that sentence:</p> <p>25 "While the figure of 115 million</p> <p style="text-align: right;">Page 163</p>	<p>1 says "In the United States District Court for the</p> <p>2 District of Colorado"?</p> <p>3 A I do, yeah.</p> <p>4 Q And I'll just give you a moment to review</p> <p>5 this document. You can let me know when to scroll</p> <p>6 down.</p> <p>7 A Can you just make the font bigger, please?</p> <p>8 Q Sure.</p> <p>9 A Scroll down a little bit.</p> <p>10 Okay.</p> <p>11 Okay.</p> <p>12 Q In this declaration, you did not include</p> <p>13 the line "While the figure of X million magazines</p> <p>14 with a capacity greater than 10 rounds in</p> <p>15 circulation is an estimation based on an</p> <p>16 extrapolation from indirect sources and cannot be</p> <p>17 confirmed as unequivocally accurate"; correct?</p> <p>18 A I did not see it.</p> <p>19 Q Did you use the same process for making</p> <p>20 this determination that you did in the Wiese case?</p> <p>21 A Can you repeat that?</p> <p>22 Q I'll just ask a simpler question.</p> <p>23 Why did you not include that -- that line</p> <p>24 in this declaration?</p> <p>25 A I don't recall.</p> <p style="text-align: right;">Page 165</p>

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<p>1 Q The -- the Magazine Chart attached as 2 Exhibit -- as an exhibit to your declaration in the 3 Wiese case reflects consumer possession of magazines 4 between 1990 and 2015; is that correct? 5 A Correct. 6 Q So it doesn't reflect any data from 2016 to 7 the present; correct? 8 A Not to my knowledge. 9 Q And you were not asked in this case to 10 submit a -- an updated version of this chart, were 11 you? 12 A I was asked to look to see what was 13 available and I did not find anything. 14 Q You mentioned previously that you hunt; is 15 that correct? 16 A Yes. 17 Q And how long have you hunted for? 18 A Probably 40 years. 19 Q And -- so would it be fair to say that you 20 began hunting in approximately 1980? 21 A '82. 22 Q And when you first started hunting, do you 23 recall what kind of rifle you used? Or did you use 24 a rifle or a pistol or a shotgun? 25 A Rifle and shotgun.</p> <p style="text-align: right;">Page 166</p>	<p>1 A My grandfather had served in World War II. 2 He was provided with a service rifle, a 30 Carbine, 3 and that held 15 rounds of 30 caliber Carbine, and 4 he had -- when he got back, I think he either 5 purchased a service rifle or my father ended up 6 getting that, and then I ended up getting that for 7 some time and then I think it's at my cousin's 8 house. 9 Just a family heirloom that's been passed 10 around with those 15-round magazine capacity. 11 So I didn't purchase them. And I don't 12 recall if I've purchased any other magazine with 13 more than 10-round capacity. 14 Q So all three of those magazines were 15 initially issued to the original owner by the 16 military. Is that fair to say? 17 A I don't know the full story where my 18 grandfather -- if he bought them after he returned 19 home, to have a similar firearm and magazines that 20 he carried, you know, during the war. 21 I don't know the full story, but I know 22 it's kind of a family heirloom. It's made its way 23 down three generations and soon to be four. 24 Q But all three large-capacity magazines you 25 possess are all family heirlooms; correct?</p> <p style="text-align: right;">Page 168</p>
<p>1 Q Did those rifles that you used have 2 detachable magazines? 3 A I don't recall. Possible. 4 Q When was the first time you recall hunting 5 with a detachable magazine firearm? 6 A Probably squirrel hunting with, like, a 7 Ruger 10/22, which had a detachable magazine, and 8 I'm not sure when that would have been. '80s or 9 '90s. 10 Q Do you recall what capacity magazine you 11 hunted with that Ruger firearm? 12 A I believe it was 10. 13 Q To the best of your recollection, do you 14 recall why you didn't use a larger capacity 15 magazine? 16 A I do not recall. 17 Q Do you recall when you first purchased a 18 large-capacity magazine? 19 A When I purchased -- first purchased a 20 large-capacity magazine? 21 I don't recall if I've ever purchased one. 22 Q I believe you previously testified that you 23 possess 3 large-capacity magazines; is that right? 24 A It is correct. 25 Q How did you acquire those?</p> <p style="text-align: right;">Page 167</p>	<p>1 A There are four that -- the 30 Carbine 2 firearm that my grandfather had carried or 3 been -- similar firearm to what he carried in 4 World War II. 5 Q I think you had previously testified that 6 Connecticut had some restrictions on magazine 7 capacity; correct? 8 A I believe the max is 10 and I think that 9 was about 2013 when that came into effect and then 10 we had to sign some sort of paperwork that said "if 11 you own any." 12 Q And do you -- why did you not purchase any 13 large-capacity magazines prior to 2013? 14 A I didn't have the need for them. 15 I'm not saying that I didn't because, you 16 know, some firearms that I had purchased may have 17 come with 10-plus or 11-plus, but I don't recall any 18 that did. 19 Q When you say you "didn't have the need for 20 them," what do you mean? 21 A I have, you know, plenty of a collection of 22 firearms and magazines and accessories for all the 23 things that I am currently doing now. 24 Q Correct me if I'm wrong, but that is mainly 25 hunting and target shooting; correct?</p> <p style="text-align: right;">Page 169</p>



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<p>1 A Correct.</p> <p>2 Q So from the period you first started</p> <p>3 shooting in 1982 until large-capacity magazines</p> <p>4 became restricted in Connecticut in 2013, you've</p> <p>5 never felt the need to purchase a large-capacity</p> <p>6 magazine; is that correct?</p> <p>7 A Again, not to my knowledge. Some of the</p> <p>8 handguns may have come with 11-plus capacity, but,</p> <p>9 you know, they are not in my possession anymore.</p> <p>10 It wasn't something that was a big deal or</p> <p>11 tracked. If you had it, you had it, but it</p> <p>12 wasn't -- I mean, it wasn't as big of a deal as it</p> <p>13 is nowadays.</p> <p>14 Q So it sounds like -- it sounds like you</p> <p>15 may, prior to 2013, have come into possession of</p> <p>16 large-capacity magazines simply by virtue of buying</p> <p>17 a firearm that came with one; correct?</p> <p>18 A Correct.</p> <p>19 Q And is that -- do you think that's a common</p> <p>20 occurrence, that someone purchases a firearm and it</p> <p>21 happens to come with a large-capacity magazine?</p> <p>22 A It's possible and there's aftermarket, as</p> <p>23 well, where people can pick up additional magazines</p> <p>24 to go with their firearm.</p> <p>25 Q You're educating me, but I'm asking the</p> <p style="text-align: right;">Page 170</p>	<p>1 sell what they were asking for, and if that customer</p> <p>2 was asking for, you know 2 -- 2 magazines with each</p> <p>3 purchase or 1 magazine with each purchase or 11-plus</p> <p>4 magazine, I think just like any -- any business</p> <p>5 sector, they listen to their customers and try to</p> <p>6 provide the product that that customer wants.</p> <p>7 Q Just to be clear, the Magazine Chart</p> <p>8 attached to your declaration at Exhibit A does not</p> <p>9 indicate how many Americans own large-capacity</p> <p>10 magazines; correct?</p> <p>11 A Correct.</p> <p>12 Q And it doesn't contain any information on</p> <p>13 why Americans may own large-capacity magazines;</p> <p>14 correct?</p> <p>15 A Correct.</p> <p>16 MR. MEYERHOFF: I've got nothing further at</p> <p>17 this time.</p> <p>18 MR. LEE: I have a few questions.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21 BY MR. LEE:</p> <p>22 Q Mr. Curcuruto, when we approached you way</p> <p>23 back in 2017 and we asked you to do something in</p> <p>24 connection with this case, what was it that we asked</p> <p>25 you to do?</p> <p style="text-align: right;">Page 172</p>
<p>1 question do you think your experience is a common</p> <p>2 one that individuals purchase a firearm and come</p> <p>3 into possession of a large-capacity magazine simply</p> <p>4 by virtue of it being included with the firearm?</p> <p>5 A I think that happens in several instances,</p> <p>6 you know, where legal, and I know it's a lot more</p> <p>7 complicated for retailers and manufacturers to sell</p> <p>8 in different states. They have got to make sure</p> <p>9 they are in compliance so they are not going to get</p> <p>10 into trouble themselves or their customers in</p> <p>11 trouble.</p> <p>12 Q You have 40 years of experience with</p> <p>13 firearms; correct?</p> <p>14 A Correct.</p> <p>15 Q Is it fair to say that large-capacity</p> <p>16 magazines have become more prevalent over the past</p> <p>17 40 years?</p> <p>18 A I would think so, yes.</p> <p>19 Q And is part of the reason they have become</p> <p>20 more prevalent because, as in your case, they were</p> <p>21 included with the firearm that was sold?</p> <p>22 A I think on the pistol side, in my opinion,</p> <p>23 manufacturers -- different -- depending on the</p> <p>24 consumer demand, the manufacturers would then, you</p> <p>25 know, listen to their customer and -- and make and</p> <p style="text-align: right;">Page 171</p>	<p>1 In other words, what was the scope of what</p> <p>2 we were asking you to do?</p> <p>3 A Look at NSSF data and see if we had</p> <p>4 anything available to help with your case.</p> <p>5 Q And -- and in terms of data, that is to</p> <p>6 look at the numbers and try to extrapolate the</p> <p>7 numbers of magazines in Americans' hands as of that</p> <p>8 time?</p> <p>9 A I think, yeah, in regard to the -- what we</p> <p>10 call large-capacity magazines, which is the 11-plus,</p> <p>11 to provide any data we may have on that topic.</p> <p>12 Q Did we ask you to provide any other</p> <p>13 opinions in connection with this case?</p> <p>14 A I don't believe so.</p> <p>15 Q Did we ask you to provide any opinions with</p> <p>16 regard to the -- the effectiveness -- effectiveness</p> <p>17 of California's laws?</p> <p>18 A I don't recall. I don't believe so.</p> <p>19 Q Did we ask you to provide any opinion with</p> <p>20 regard to the utility of large-capacity magazines</p> <p>21 for purposes such as self-defense?</p> <p>22 A I don't believe so.</p> <p>23 Q Did we ask you to provide any opinions as</p> <p>24 to the constitutionality of California's</p> <p>25 large-capacity magazine laws?</p> <p style="text-align: right;">Page 173</p>



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<p>1 A I don't believe so.</p> <p>2 Q Is it fair to say that the only opinions</p> <p>3 that we asked you to provide in this case are</p> <p>4 summarized in paragraph 8 of your declaration which</p> <p>5 is that 230 million magazines are in American hands,</p> <p>6 of which one half of those are approximated to be</p> <p>7 large-capacity magazines?</p> <p>8 A Correct.</p> <p>9 Q And that was your opinion in 2017?</p> <p>10 A It was.</p> <p>11 Q And from 2017 to 2023, has anything</p> <p>12 occurred in the industry that would change your</p> <p>13 opinion with regard to the millions of magazines in</p> <p>14 Americans' hands?</p> <p>15 A Nothing has happened that would change my</p> <p>16 opinion on the chart that we originally put out,</p> <p>17 but, obviously, in six years, there has been</p> <p>18 additional firearms and accessories, including</p> <p>19 magazines of all types that have been manufactured</p> <p>20 and purchased.</p> <p>21 Q And -- and as part of your work in the</p> <p>22 firearms industry for NSSF, it was your job to keep</p> <p>23 track of trends in the industry overall in terms of</p> <p>24 consumer trends? Is that true?</p> <p>25 A It is correct.</p> <p style="text-align: right;">Page 174</p>	<p>1 pawnshop, the system catches those as well.</p> <p>2 Q You said the FBI puts out NICS data every</p> <p>3 month?</p> <p>4 A Correct.</p> <p>5 Usually within the first week; so, for</p> <p>6 example, you know, we're at August 3rd. July data</p> <p>7 would be out about now. July -- you know, the month</p> <p>8 before, within a week.</p> <p>9 Q And NICS data records the number of</p> <p>10 background checks. Is that fair?</p> <p>11 A Correct.</p> <p>12 Q Is NICS data used to extrapolate the number</p> <p>13 of firearms purchases in any given period of time,</p> <p>14 such as a month or a year?</p> <p>15 A It has been used by several organizations</p> <p>16 and maybe outlets.</p> <p>17 You know, at NSSF, we adjusted that FBI</p> <p>18 data to take out things that we didn't think had to</p> <p>19 do with the sale or transfer of the firearm to get a</p> <p>20 little bit more accurate picture, but we used that</p> <p>21 as an indicator of sales, and since we had been</p> <p>22 going on for 20-plus years on a monthly basis, it</p> <p>23 provided pretty good trend data to our members.</p> <p>24 Q And so if I wanted to look at the firearm</p> <p>25 trend in general in terms of firearm purchases from</p> <p style="text-align: right;">Page 176</p>
<p>1 Q And so did you keep track of trends in</p> <p>2 general in the firearm industry, consumer trends?</p> <p>3 A We did.</p> <p>4 Q In general, from 2017 to the present, did</p> <p>5 firearm sales increase, decrease, or remain the same</p> <p>6 since you first gave that opinion?</p> <p>7 A From 2017 to 2023, where we are now,</p> <p>8 without looking at, you know, all the -- all</p> <p>9 the data I had available to me over time, I believe</p> <p>10 that firearm-accessory sales have increased over the</p> <p>11 past six, seven years.</p> <p>12 Q And what is NICS, N-I-C-S.</p> <p>13 A The FBI, the Federal Bureau of</p> <p>14 Investigation, has NICS, which is National Instant</p> <p>15 Criminal Background Check System, and they put out</p> <p>16 data on a monthly basis that records the amount of</p> <p>17 checks to that system and a check would be when a</p> <p>18 firearm retailer or a state agency, such as a state</p> <p>19 police, would log into the FBI NICS system and do a</p> <p>20 background check or somebody that is looking to</p> <p>21 purchase or transfer a firearm, whether that's at a</p> <p>22 retail -- traditional brick-and-mortar retail</p> <p>23 establishment, and now I think there's, you know,</p> <p>24 other ways that system is being used as well.</p> <p>25 When you pawn a gun or redeem a gun at a</p> <p style="text-align: right;">Page 175</p>	<p>1 2017 to the present, I could look at NICS data as</p> <p>2 one indicator?</p> <p>3 A Correct.</p> <p>4 And we always tried to caution to just</p> <p>5 don't look at one thing -- the NICS data, all the</p> <p>6 other indicators that we provided and their own</p> <p>7 industry knowledge.</p> <p>8 Q Is there anything in -- within the -- your</p> <p>9 knowledge of the firearm trends in general, since</p> <p>10 2017, or the NICS data -- is there anything in there</p> <p>11 that would change your opinion as to the millions of</p> <p>12 firearms that are held in American hands presently?</p> <p>13 A Nothing that changed my opinion on -- on</p> <p>14 what we had submitted for this case.</p> <p>15 I would assume there's just -- that number</p> <p>16 has grown probably substantially over the past seven</p> <p>17 years.</p> <p>18 Q Do you know what percentage of firearm</p> <p>19 sales from 2017 through the present are</p> <p>20 semiautomatic firearms?</p> <p>21 A I do not know that. I don't have that</p> <p>22 offhand.</p> <p>23 Q Do you -- did you -- do you have an</p> <p>24 estimate as to the number -- the breakdown between</p> <p>25 semiautomatics and other types of firearms?</p> <p style="text-align: right;">Page 177</p>

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<p>1 MR. MEYERHOFF: Objection. Asked and 2 answered. 3 THE WITNESS: I do not have a -- I wouldn't 4 want to provide an incorrect statement there. I was 5 talking for a couple hours how I always like to put 6 out accurate data; so I don't want to put out 7 anything incorrect right now. 8 Sorry about that. 9 BY MR. LEE: 10 Q No worries. 11 Now, the NSSF was a trade organization for 12 the firearms industry; correct? 13 A Correct. 14 Q And there is no secret that it's a trade 15 industry for the firearm association; right? 16 A Correct. 17 Q And we never -- I don't think, to our 18 knowledge, we have ever tried to hide the fact that 19 it's associated with the firearms industry. 20 Have you ever heard anyone try to hide that 21 fact from anybody? 22 A On the contrary, they like to tout that 23 they are the trade association for the firearm 24 industry. I think that is their latest tag line. 25 Q And you were a member of the firearms Page 178</p>	<p>1 FURTHER EXAMINATION 2 BY MR. MEYERHOFF: 3 Q Mr. Lee asked you if your opinions that you 4 were asked for in this case were only those 5 contained in your declaration you filed; correct? 6 A Correct. 7 The original one from '17; correct. 8 Q And then he asked you a number of questions 9 about your opinions unrelated to your declaration; 10 correct? 11 A Correct. 12 Q He asked about firearm sales; correct? 13 A Correct. 14 Q He asked about magazine sales? 15 A I think we discussed magazines, but I'd 16 have to go back and look at the document to see 17 specifically what he asked. 18 Q You left NSSF in 2021; correct? 19 A Yes. 20 Q And I believe you testified at the 21 beginning of this deposition that after you left -- 22 left NSSF, you lacked access to the documents and 23 information that you -- that you used while you were 24 at NSSF; correct? 25 A Correct. Page 180</p>
<p>1 industry for 14 years as a member -- as an employee 2 of NSSF; is that correct? 3 A 11 years. From '09 to '21, yeah. 4 Q And you are still part of the firearm 5 industry. Is that fair? 6 A Yeah. 7 We're focused on conservation, but 8 obviously when we're dealing with hunters and target 9 shooters, firearms are involved. 10 Q Because Mr. Meyerhoff, I don't know, spent 11 maybe two hours asking you to verify, I think, that 12 which is not disputed which is that you are 13 affiliated with the firearms industry. 14 Is that fair? 15 A It is, yes. 16 Q Are you aware of any other source that the 17 firearms industry relies upon to measure the number 18 of magazines in circulation besides the NSSF data? 19 A I am not aware. I would hope that it's out 20 there; that we have evolved a little or somebody 21 else has done it, but I'm not aware of any. 22 MR. LEE: Thank you very much. That is all 23 the questions I have. 24 MR. MEYERHOFF: I'll just ask a few 25 questions on redirect. Page 179</p>	<p>1 Q You -- Mr. Lee mentioned the NICS database; 2 correct? 3 A He did. 4 Q But you mentioned when you worked at NSSF 5 that you adjusted the numbers in that database; 6 correct? 7 A We did. 8 Q And you cautioned not just to look at the 9 NIS- -- NICS data; correct? 10 A Standard practice for our members that we 11 would say "There's not just one thing to look at." 12 We want them to, you know, try to get as much 13 information as they could and then make their 14 decisions, which is just helpful -- trying to be 15 helpful if you say "Don't just look at one thing," 16 but I think most people know that that is not a good 17 business move. 18 Q Sure. Sure. 19 And so to do right by your members, you 20 would look at other sources of data other than the 21 NICS; correct? 22 A Correct. 23 Q And what other sources of information would 24 you look at? 25 A Well, that we had referenced a few. The Page 181</p>

<p>1 ATF AFMER data, the International Trade Commission, 2 import/export. 3 ATF also put out a report on the number of 4 FFLs or firearm -- federal firearm retail -- or 5 licenses out there. 6 There was government source data on 7 silencers or suppressors that we talked about. 8 I mean, dozens and dozens of different 9 sources out there in the participation data on 10 hunting and target shooting, economic impact and 11 jobs and all that sort of stuff; so we tried to 12 provide as much as we could but certainly not just 13 one thing. 14 Q And would it be fair to say that to provide 15 the most accurate data, the most accurate trend 16 lines, that you would want to look at those dozens 17 and dozens of sources? Correct? 18 A That's what we would recommend to our -- 19 our members, to say, you know, "Here is everything 20 that we have," you know, whatever topic that you're 21 looking at. "Make sure you utilize all the 22 resources that we have" because, again, we were 23 trying to put out stuff that was timely and accurate 24 for them to make good business decisions. 25 Last thing we wanted to do was put out</p> <p style="text-align: right;">Page 182</p>	<p>1 MR. LEE: Objection. Asked and answered. 2 Beyond the scope. 3 BY MR. MEYERHOFF: 4 Q But you can answer. 5 A If it was asked and answered, I would have 6 to go back and ask -- to review my answer. 7 Q I'm just asking, sitting here in this 8 moment, do you recall if you were aware that 9 plaintiffs' refiled your declaration in March of 10 this year? 11 MR. LEE: Same objections. 12 THE WITNESS: Same answer. 13 BY MR. MEYERHOFF: 14 Q So you don't recall. 15 A I guess we could ask the court reporter to 16 go back and find that question and -- and read the 17 response for you. 18 MR. LEE: Do you want a stipulation, 19 Counsel? 20 MR. MEYERHOFF: No. I just want to know if 21 the witness was aware that his declaration was 22 refiled -- 23 MR. LEE: You asked him. 24 MR. MEYERHOFF: -- in March of 2023, this 25 year.</p> <p style="text-align: right;">Page 184</p>
<p>1 something that we thought was wrong or didn't think 2 that, you know, was going to help our membership. 3 Q Would you submit a declaration in this case 4 saying that "Based on NICS data alone, I believe 5 that the number of magazine sales in the 6 United States have increased over the last six 7 years"? 8 MR. LEE: Objection. Calls for 9 speculation. 10 THE WITNESS: You know, the NICS data is -- 11 helps people understand the trends in sales of 12 firearms and pistols and long guns. 13 It doesn't really break down too much more 14 into those categories; so it would not just be the 15 sole source to rely on, I don't believe. 16 I would -- if I was doing it, I would use a 17 few other sources as we discussed. 18 BY MR. MEYERHOFF: 19 Q I just want to be clear on one thing. Were 20 you aware that your 2017 declaration was refiled in 21 support of Plaintiffs' Motion for Summary Judgment 22 in this case -- 23 MR. LEE: Objection. 24 BY MR. MEYERHOFF: 25 Q -- in 2023?</p> <p style="text-align: right;">Page 183</p>	<p>1 MR. LEE: Right. 2 I'll stipulate to that fact. But if you're 3 trying to establish it for something, you did ask 4 that question already. 5 MR. MEYERHOFF: Okay. 6 Sorry, Ms. Miller. Can you go back through 7 the transcript and see if you can find the word 8 refile? 9 (The following question and answer was 10 read: 11 "Q In either of your 12 conversations with Mr. Lee over the 13 past month, did he tell you that your 14 declaration had been refiled this 15 year? 16 "A I do not recall.") 17 MR. MEYERHOFF: I don't have any other 18 questions at this time. 19 MR. LEE: Thank you. 20 THE REPORTER: Mr. Lee, are you purchasing 21 a certified copy of the transcript? 22 MR. LEE: Yes. 23 24 (The deposition concluded at 2:28 P.M.) 25 ///</p> <p style="text-align: right;">Page 185</p>

Wiese, et al. vs. Bonta, et al.

Deposition of James Curcuruto

1 I, JAMES CURCURUTO, declare under  
2 penalty of perjury that the foregoing  
3 is true and correct, to the best of  
4 my ability.  
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6  
7  
8

9 Dated this \_\_\_\_ day of  
10 \_\_\_\_\_, 2023, at  
11 \_\_\_\_\_,  
12 Connecticut.  
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16 \_\_\_\_\_  
17 JAMES CURCURUTO  
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1 I, ALTHEA L. MILLER, CSR NO. 3353, RPR,  
2 CCRR NO. 149 certify: That the foregoing proceedings  
3 were taken before me at the time and place herein set  
4 forth; at which time the witness, JAMES CURCURUTO, was  
5 duly sworn; and that the transcript is a true record of  
6 the testimony so given.

7 Witness review, correction, and signature  
8 was

9 ( ) by Code. ( ) requested.  
10 ( ) waived. (X) not requested.  
11

12 The dismantling, unsealing, or unbinding of  
13 the original transcript will render the Reporter's  
14 Certificate null and void.

15 I further certify that I am not financially  
16 interested in the action, and I am not a relative or  
17 employee of any attorney of the parties, nor of any  
18 of the parties.  
19

20 Dated this 13th day of August, 2023.  
21

22 \_\_\_\_\_  
23 ALTHEA L. MILLER, CSR NO. 3353, RPR, CCRR NO. 149  
24  
25

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